Calendar No. 841

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-574

# WYOMING WILDERNESS ACT OF 1982

SEPTEMBER 23 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

together with

## ADDITIONAL VIEWS

[To accompany S. 2118]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2118) to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

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## TITLE I—SHORT TITLE, FINDINGS AND PURPOSES

### SHORT TITLE

SEC. 101. This Act may be cited as the "Wyoming Wilderness Act of 1982".

### DECLARATION OF FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds that—

(1) certain areas of undeveloped national forest lands in the State of Wyoming possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system of Wyoming have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Wyoming have also identified those areas which should be available for multiple uses other than wilderness, subject to the Forest Service's land management planning process and the provisions of this Act.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in Wyoming for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people;

(2) withdrawn, subject to valid existing rights, National Wilderness Preservation System lands in the State of Wyoming, including those so designated by this Act, from operation of the general mining and mineral leasing laws in order to protect the physical characteristics and wilderness values which motivated the Congress to include these lands within the System;

(3) require appropriate inventory to assess and document the minerals potential of National Wilderness Preservation System lands in the State of Wyoming in order to enhance the data base; and

(4) insure that certain national forest system lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and section 302 of this Act. Such lands may be managed for a wide variety of uses, depending on their unique characteristics, including but not limited to fish and wildlife protection and management, developed and undeveloped recreation, scenic enjoyment, preservation of natural characteristics, range management, timber harvesting, watershed and vegetation management, energy and minerals exploration and development, and other uses.

## TITLE II—ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM

### DESIGNATION OF THE CLOUD PEAK, POPO AGIE, GROS VENTRE, JEDEDIAH SMITH, AND LARAMIE PEAK WILDERNESS AREAS, AND THE DUNOIR ADDITION TO THE WASHAKIE WILDERNESS, THE CORRIDOR ADDITION TO THE TETON WILDERNESS, AND THE GLACIER PRIMITIVE AREA ADDITION TO THE FITZPATRICK WILDERNESS

SEC. 201. In furtherance of the purposes of the Widlerness Act (78 Stat. 890), the following national forest system lands in the State of Wyoming, comprising approximately six hundred and seventy-eight thousand four hundred and forty-nine acres and generally depicted on maps appropriately referenced, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(a) Certain lands in the Bighorn National Forest, which comprise approximately one hundred and fifty-seven thousand nine hundred acres, as generally depicted on a map entitled, "Cloud Peak Wilderness Area Proposal", numbered W-one and dated February 22, 1982, and which shall be known as the Cloud Peak Wilderness. The previous classification of the Cloud Peak Primitive Area is hereby abolished.

(b) Certain lands in the Shoshone National Forest, which comprise approximately one hundred and one thousand nine hundred and ninety-one acres, as generally depicted on a map entitled, "Popo Agie Wilderness Area Proposal", numbered W-two and dated February 22, 1982, and which shall be known as the Popo Agie Wilderness. The previous classification of Popo Agie Primitive Area is hereby abolished.

(c) Certain lands in the Bridger-Teton National Forest, which comprise approximately two hundred and twenty-eight thousand five hundred and fifty acres, as generally depicted on a map entitled, "Gros Ventre Wilderness Area Proposal", numbered W-three and dated February 22, 1982, and which shall be known as the Gros Ventre Wilderness.

(d) Certain lands in the Targhee National Forest which comprise approximately one hundred and sixteen thousand eight hundred and fifty-five acres as generally depicted on a map entitled "Jedediah Smith Wilderness Area Proposal" numbered W-four and dated September 1982 and which shall be known as the Jedediah Smith Wilderness.

(e) Certain lands in the Medicine Bow National Forest, which comprise approximately twenty-seven thousand and four hundred acres as generally depicted on a map entitled "Laramie Peak Wilderness Area Proposal" numbered W-five and dated September 1982 and which shall be known as the Laramie Peak Wilderness Area.

(f) (1) Certain lands in the Shoshone National Forest which comprise approximately eleven thousand and one hundred acres, as generally depicted on a map entitled, "DuNoir Addition to the Washakie Wilderness Area Proposal", numbered W-six and dated September 1982 and which shall become a part of the Washakie Wilderness as designated by Public Law 92–476 (86 Stat. 792).

(2) Within the area depicted as the special management unit on the map entitled, "Washakie Wilderness—Proposed", dated June 15, 1967, revised September 12, 1970, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, any roads that may be constructed for the purpose of timber harvesting or other authorized uses shall be used only for those uses and related administration and shall not be available for general public travel. The determination of authorized use shall consider the needs of the resident and migrating elk herds and other wildlife.

(3) Section 5 of Public Law 92–476 (86 Stat. 792) is hereby repealed.

(g) Certain lands in the Bridger-Teton National Forest, which comprise approximately twenty-eight thousand one hundred and fifty-six acres as generally depicted on a map entitled "Corridor Addition to the Teton Wilderness Area Proposal", numbered W-seven and dated September 1982 which shall become a part of the Teton Wilderness as designated by Public Law (88–577).

(h) (1) Certain lands in the Shoshone National Forest, which comprise approximately six thousand four hundred and ninety-seven acres, as generally depicted on a map entitled, "Glacier Addition to the Fitzpatrick Wilderness Area Proposal", number W-eight and dated September 1982 and which shall become a

part of the Fitzpatrick Wilderness as designated by Public Law 94–557 and public law 94–567.

(2) Within the area described in section 201(h)(1), motorized access for administrative purposes and related activities as determined necessary by the Secretary for the trapping, transporting, and proper management of the area's big horn sheep population shall be allowed.

(3) The previous classification of the Whiskey Mountain Primitive Area is hereby abolished.

LEGAL DESCRIPTION AND WILDERNESS BOUNDARIES

SEC. 202. As soon as practicable after the enactment of this Act, a map and a legal description of each wilderness area designated under section 201 shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

APPLICATION OF THE WILDERNESS ACT OF 1964

SEC. 203. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act and the Wilderness Act, except that any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

## TITLE III—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

ADMINISTRATIVE AND CONGRESSIONAL REVIEW OF ROADLESS AREAS

SEC. 301. The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wyoming and the environmental impacts associated with alternative allocations of such areas.

RELEASE OF LANDS NOT DESIGNATED AS WILDERNESS

SEC. 302. (a) The Congress hereby determines and directs that, without passing on the question of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to national forest lands in States other than Wyoming, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Wyoming.

(b) national forest system lands in the State of Wyoming—

(1) not identified by, section 201 as additions to the National Wilderness Preservation System, or

(2) not heretofore designated by Act of Congress as components of the National Wilderness Preservation System, shall be managed for multiple uses other than wilderness, until and unless otherwise directed by an Act of Congress. Such lands shall be deemed, for purposes of all current and future land management plans which are approved before December 31, 2000, and which are required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to have been given adequate consideration as to their suitability for inclusion in the National Wilderness Preservation System.

(c) Unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

## TITLE IV—WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM OPERATION OF THE MINING AND MINERAL LEASING LAWS

### WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM MINING AND MINERALS ACTIVITY

SEC. 401. Notwithstanding any other provision of law, and subject to valid existing rights, lands within the national forest system in Wyoming which have previously been designated by Act of Congress for inclusion in the National Wilderness Preservation System, and lands which are so designated by this Act, are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. In the case of the lands referred to in the preceding sentence, for purposes of applying the provisions of section 4(d)(3) of the Wilderness Act, the date of enactment of this Act shall be substituted for the December 31, 1983, and the January 1, 1984, dates referrd to in such provisions.

## TITLE V—ASSESSMENT OF MINERALS, PROHIBITION ON DRILLING

SEC. 501. (a) Subject to subsection 501(b) of this Act, and in furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to assess the minerals potential of National Wilderness Preservation System lands within the State of Wyoming in order to expand the data base with respect to the minerals potential of such lands.

(b) Notwithstanding any other provision of law and subject to valid existing rights, exploratory drilling within the boundaries of any congressionally designated unit of the National Wildlife Preservation System in the State of Wyoming for the purposes of assessing oil and gas potential is hereby prohibited.

### RECOMMENDATIONS TO CONGRESS BY THE PRESIDENT

SEC. 502. (a) At any time after the date of enactment of this Act, the President may transmit to the Congress a recommendation that minerals exploration, development, or extraction not permitted under the Wilderness Act and this Act shall be permitted in a specified area or areas within any Wyoming unit of the National Wilderness Preservation System. Notice of such transmittal shall be published in the Federal Register and shall be conveyed to the Governor of Wyoming.

(b) A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on available information—

(1) there is an urgent national need for the minerals activity; and

(2) such national need outweighs the other public values of the wilderness lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) Together with a recommendation, the President shall submit to the Congress—

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendations;

(2) a statement of the conditions and stipulations which would govern the recommended activity; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of that Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of such Act, the President may, if he deems it desirable, include such a statement in his transmittal to Congress.

(d) Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to the Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(f) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other ruels only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation submitted by the President for ———— within ———— submitted to the Congress on ————, 19—"; the first blank space therein to be filled in with the mineral exploration, development, or extraction recommended, the second blank space therein to be filled in with the name of the area or areas concerned within any Wyoming unit of the National Wilderness Preservation System, and the third and fourth blank spaces therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate.

(3) A resolution once introduced with respect to such application shall be referred to one or more committees (and all resolutions with respect to the same application shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If any committee to which a resolution with respect to an application has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such application which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same application) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same application.

(5) (A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier than sixty days after the date of transmittal by the President of the application to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution, shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, or, thereafter, within such one-hundred-and-twenty-day period, to consider any other resolution respecting the same application.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules to the procedures of the Senate or the House of Representatives relating to a resolution shall be decided without debate.

(7) If one House of the Congress (hereinafter referred to as the first House) receives from the other House a resolution under this section, then the following procedure applies:

(A) The resolution of the other House shall not be referred to a committee in the first House.

(B) The procedure with respect to the resolution of the first House or other resolutions of such House shall be the same as if no resolution from the other House had been received, but on any vote on final passage of a resolution of the first House, where the text of the resolution from the other House is identical, the resolution of the other House shall be automatically substituted for the resolution of the first House.

TITLE VI—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 601. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in the State of Wyoming in order to ensure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act.

STATE WATER ALLOCATION AUTHORITY

SEC. 602. (a) As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Wyoming water laws.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Wyoming with respect to wildlife and fish in the national forests in Wyoming.

PROHIBITION ON BUFFER ZONES

SEC. 603. Congress does not intend that designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

## PURPOSE OF THE MEASURE

The purpose of S. 2118, as reported, is to add eight areas of National Forest System lands in Wyoming totaling approximately 678,449 acres as components of the National Wilderness Preservation System. The bill would also direct the Forest Service to manage all other lands in the National Forest System in Wyoming for uses other than wilderness and would bar judicial review of the RARE II environmental impact statement with respect to those lands reviewed in Wyoming.

S. 2118 withdraws all designated wilderness in Wyoming, from appropriation under the mining laws and from disposition, under the mineral and geothermal leasing laws. The bill prohibits exploratory oil and gas drilling in the designated wilderness areas in Wyoming. The bill does however, allow the President to recommend to Congress that a selected wilderness area in Wyoming be opened for mineral exploration and provides for expedited procedures for consideration of a joint resolution of approval by Congress. S. 2118 has miscellaneous provisions directing the Secretary of Agriculture to review grazing

activities within National Forest wilderness in Wyoming and confirming the existing language in the 1964 Wilderness Act in reference to state water laws and state jurisdiction over fish and wildlife within wilderness areas in Wyoming.

## Summary of Major Provisions

Title I declares findings and purposes.

Title II designates eight areas of National Forest System lands in Wyoming as units of or additions to units of the National Wilderness Preservation System.

Title III bars judicial review of the RARE II environmental impact statement with respect to Wyoming and releases for multiple uses other than wilderness all National Forest System lands in Wyoming not designated as wilderness by this Act or by previous Act of Congress. It prohibits reconsideration of the lands for wilderness in future planning efforts until the first planning cycle after the year 2000, after which they would be available for consideration again. Section 302(c) would abolish the 6,497 acres Glacier Primitive area established in 1976.

Title IV withdraws all designated national forest wilderness in Wyoming from appropriation under the mining laws and from disposition under the mineral and geothermal leasing laws, subject to valid existing rights.

Title V prohibits oil and gas exploratory drilling within designated wilderness areas in Wyoming, and directs the Secretary of the Interior to assess the minerals potential of such lands. The Secretary is directed to make all pertinent minerals information available to the President and the Congress. Title V also sets up a process for opening any Wyoming wilderness area to minerals exploration, development, or extraction.

Title VI contains miscellaneous provisions. Section 601 directs the Secretary of Agriculture to review policies, practices, and regulations regarding livestock grazing in wilderness areas in Wyoming to ensure that they are consistent with the intent of Congress. Section 602 parallels the language of the Wilderness Act as to the applicability of state water laws and as to the State's jurisdiction with respect to wildlife and fish. Section 603 bars the creation of buffer zones around wilderness areas and states that the fact the nonwilderness activities conducted outside an area can be seen or heard within the wilderness shall not, of itself, preclude such activities up to the wilderness boundary.

## Background and Need

In June 1977, the U.S. Forest Service instituted its second Roadless Area Review and Evaluation (RARE II). This program was intended to survey the roadless and undeveloped areas within the National Forest Service and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas recommended for wilderness would be candidates for addition to the National Wilderness Preservation System by Congressional action. The remaining roadless lands were allocated to nonwilderness, for uses

determined under the multiple-use planning process, or were allocated to further study.

In his proposals for RARE II lands made on April 16, 1979, President Carter made final recommendation to Congress based on the review of 2,919 identified roadless areas encompassing 62 million acres in the National Forest System, including the National Grasslands. The past Administration recommended that wilderness designation be given to approximately 15.4 million acres of the original 62 million acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions could be made on their future management. The balance of the areas—totaling about 36 million acres—were allotted for non-wilderness, multiple-use management.

Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Statement insofar as its consideration of wilderness in more than 40 areas in the State of California was concerned. In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in the *State of California* v. *Bergland*, 483 *F. Supp.* 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture.

While this court decision affects only the State of California, there has been considerable concern that similar suits might be filed in other states which would seriously disrupt the management of the national forest system.

The RARE II process during 1977–1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System must be considered during the planning process for those lands which may be suited for wilderness. The Forest Service is presently developing the initial, or "first-generation" plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985. As one of the goals of RARE II was to consider the wilderness potential of all national forest roadless areas, the Forest Service regulations for implementing the National Forest Management Act (36 CFR 219.12 (3)), Federal Register, September 17, 1979, pg. 53988) provide that lands designated by RARE II for multiple uses other than wilderness need not again be considered for wilderness in the course of developing the "first generation" plans.

Wyoming has 9,252,329 acres of land in the National Forest System. Of those 9.2-plus million acres, 2,193,202 acres are already included in

the National Wilderness Preservation System. The Forest Service in RARE II studied 3,928,000 acres of National Forest System lands in Wyoming that met the preliminary criteria for review. The past Administration recommended 996,400 acres proposed for wilderness designation, 407,791 acres were ranked by the Forest Service as commercial forest acres.

S. 2118, as reported, would add 678,449 acres to the present 2,193,202 acres for a total of 2,871,651 acres in the National Wilderness Preservation System. Thirty-one percent of National Forest System Lands in Wyoming would be designated as wilderness assuming S. 2118, as reported is enacted. Approximately 4.5 percent of the land area (62,209,900) of Wyoming would be in the National Wilderness Preservation System.

## Legislative History

S. 2118 was introduced by Senator Wallop on February 23, 1982. A hearing before the Subcommittee on Public Lands and Reserved Water was held on April 30, 1982 in Casper, Wyoming, and on August 18, 1982, in Washington, D.C. The Wyoming Congressional delegation held a delegation workshop on S. 2118 on May 1, 1982, in Riverton, Wyoming. The written testimony was included in the hearing record of the April 30, 1982, hearing held in Casper, Wyoming. The Administration in testimony presented at the August 18 hearing *supports* S. 2118 if amended. At a business session on September 15, 1982, the Committee on Energy and Natural Resources ordered S. 2118, as amended, favorably reported.

## Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on September 15, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 2118, with an amendment in the nature of a substitute as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

| YEAS | NAYS |
|---|---|
| Mr. McClure | |
| Mr. Hatfield | |
| Mr. Domenici | |
| Mr. Wallop | |
| Mr. Warner [1] | |
| Mr. Humphrey [1] | |
| Mr. Murkowski | |
| Mr. Nickles | |
| Mr. East [1] | |
| Mr. Heinz [1] | |
| Mr. Jackson | |
| Mr. Johnston [1] | |
| Mr. Bumpers | |
| Mr. Ford | |
| Mr. Metzenbaum | |
| Mr. Matsunaga [1] | |
| Mr. Melcher | |

[1] Indicates voted by proxy.

## Area Descriptions

The areas recommended for inclusion in the National Wilderness Preservation System by this Act possess outstanding wilderness characteristics. The areas are rich in diversity including a wide variety of landforms, wildlife, and plant species. Many of the areas contain significant water resources values and provide important watershed protection. All provide excellent opportunities for dispersed recreation and solitude. The designation of these lands in Wyoming as wilderness will make an important and significant contribution to the National Wilderness Preservation System.

The Gros Ventre (pronounced Grow Vont), takes its name from the French word for the Nez Perce Indian Tribe, meaning "Big Belly." The 157,900 acre area in the Bridger-Teton National Forest is bounded on the west by Jackson Hole, Wyoming; on the north by Gros Ventre River; on the east by the upper reaches of the Green River; and on the south by the southern slopes of the Gros Ventre Range. Elevations range from 6,500 to 11,750 feet at Double Top Mountain.

The area is dominated by the Gros Ventre Range which includes some twenty peaks over 11,000 feet in elevation and more than 100 peaks that are over 10,000 feet. The area is perhaps best characterized by the mountain profile of the "Sleeping Indian" with the "Big Belly" (Gros Ventre) which dominates the eastern skyline of Jackson Hole, containing two peaks over 11,000 feet high.

The name Gros Ventre is more widely recognized from the massive landslide that occurred in 1925 above the Town of Kelly which subsequently dammed the Gros Ventre River causing a flood and destroying the town.

The Gros Ventre contains several interesting and unique expressions of geology. The southwestern quadrant contains one amazing collection of thrust faults. The area is frequently used as an outdoor laboratory by the University of Michigan which owns and maintains a field station on adjoining lands. The north quadrant from Sportsman Ridge to Gros Ventre Slide contains one of the largest concentrations of landslides in Wyoming. Many of these unstable landforms consisting of interbedded sandstone and shale layers are active slides.

The high meadows provide unusual wildflower displays contrasted with numerous water features including lakes, streams, and several singular waterfalls. The area contains over 250 miles of pristine streams, many of which contain a native cutthroat trout fishery. The more common large animals present in the area are elk, moose, deer, and several bands of bighorn sheep. The area is a historic habitat for bear including both the threatened grizzly and the more common species of black bear. Douglas fir, lodgepole pine, Engelmann spruce and alpine fir are the principal tree species.

The proposed area has several extant Forest Service grazing permits.

Cloud Peak—The 157,900 acre area in the Bighorn National Forest, encompasses 27 miles of the Bighorn Mountain Range. Most stream courses originate in glacial formed cirques and flow through U-shaped valleys. Lakes were formed in scooped-out granite basins or by mo-

raine dams near the heads of the canyons. Ninety lakes and 55 miles of streams provide fishing opportunities. Many of the lakes occur above 9,000 feet, providing excellent habitat for cutthroat, rainbow and mackinaw trout. Largest of the lakes are Emerald, Geneva, Rainbow, Crater, Upper Crater, Solitude, Mistymoon, Glacier, Loomis, Angeline, Lame Deer, and Seven Brothers Lakes. Major drainages are Edelman, North Paint Rock, Paint Rock, Kearny and Clear Creeks. Cloud Peak at 13,167 feet is the highest peak, followed by 13,005 foot Black Tooth Mountain.

The principal vegetative ecosystems are Engelmann spruce-subalpine fir, lodgepole pine, dwarf trees, shrubs, grassland and meadow. Elk, moose, mule deer, bighorn sheep, black bear and numerous small mammals and birds innabit the area.

The proposed area has several extant Forest Service grazing permits.

Popo Agie—The Popo Agie (pronounced Pop-o-shia), Wilderness is a 101,991 acre area in the Shoshone National Forest. The topography consists of deep narrow valleys set in a 25 mile stretch of the Southern Wind River Range. High jagged peaks are typical land form features of the area. Sheer granite walls are prevalent. Over twenty summits exceed 12,000 feet, and Wind River Peak at 13,225 feet elevation is the highest. The area's lowest elevation is 8,540 feet along the North Fork of Popo Agie River. Other drainages are Middle Popo Agie River, South Fork of Little Wind River, and Smith Lake, Deep and Tayo Creeks.

Principal forest ecosystems are Engelmann spruce subalpine fir, lodgepole pine, whitebark-limber pine and aspen. Over one-half of the area is grassland and rock and there are over 2,200 acres of lakes. The montane, subalpine and alpine vegetative life zones are represented.

Over 46 lakes and 58 miles of streams contain grayling and cutthroat, brook and golden trout.

Elk, moose, mule deer, bighorn sheep and black bear are the major game animals. Smaller furbearers include coyote, badger, fox, beaver, bobcat, marten, mink, weasel and skunk. Marmots and pika inhabit the alpine country. Blue grouse, ruffed grouse, several species of hawks, crows, ravens and numerous species of smaller birds live within the area.

DuNoir—The DuNoir is a 11,100 acre area in the Shoshone National Forest which is part of the 28,000 acre Special Management Unit established by Sec. 51 of P.L. 92-476.

The DuNoir Unit is located at the headwaters of DuNoir Creek, Wind River Ranger District, Shoshone National Forest, about 25 miles northwest of Dubois, Wyoming.

The DuNoir Special Management Unit is a diverse area, ranging from rolling, tree-covered slopes to open, alpine vegetation. The Unit includes terrain suitable for intensive management and other areas that meet the criteria for wilderness. Through public involvement at both regional and local levels, the needs for both wilderness and the production of goods and services for local economic benefit have been identified.

Elevations range from 8,000 to 11,400 feet. Slopes vary from gently rolling valley bottoms to vertical cliffs. The general aspect is south with east and west slopes in the upper headwaters.

The Unit receives from 20 to 50 inches of precipitation yearly, mostly as snow during the winter and spring months. The summer and fall months are generally rather dry, except for brief thundershowers.

Coniferous forests cover about 23,000 acres (80 percent) of the Unit. Open parks, lakes and ponds, and rock account for the remaining 5,800 acres. The Unit contains habitat for a variety of different mammal, fish, bird, reptile and amphibian species. Deer, elk, and trout are common throughout the Unit. Bighorn sheep, coyote, black bears, and moose are found occasionally. Furbearers such as beaver and marten are present. Numerous small mammals and non-game birds find habitats throughout the Unit. Reptile and amphibian populations, primarily represented by snakes, lizards, toads, and frogs are low.

The DuNoir economy has three main sectors: Agriculture, Forest and Forest Production, and Tourism and Recreation. The Agriculture sector generates about 12 percent of the total dollars in the local economy. The Forest Industry sector generates about 40 percent of the total, and the Tourism and Recreation sector contributes approximately 45 percent of the total.

Jedediah Smith—The proposed area is on the west slope of the Teton Mountains bordering the entire western edge of Grand Teton National Park. The area has similar scenic qualities as the more well known East Slope of the Tetons. It is adjacent to and below the major peaks of the Teton Range. The Jedediah Smith area is characterized by parallel westerly flowing entrenched glacio-fluvial drainages. Landforms from east to west include rocky ridges, cirques, glacial troughs, canyons, and broad, intercanyon ramps.

Lower elevations have mixed stands dominated by aspen families. As elevation increases, the area becomes heavily forested with lodgepole pine and Douglas-fir stands. At higher altitudes are mixed stands of lodge-pole, Douglas-fir, alpine fir and Engelmann spruce, topped out with limber pine. These high altitude stands are on steep slopes. The highest ranges are non-forested alpine areas. Ground vegetation varies from heavy grass-brush types at lower elevations to sparse grass-forb types at higher elevations. A wide variety of wildflowers in the spring and summer and fall colors of autumn are additional scenic attractions.

The Jedediah Smith area is a heavy water producer feeding substantial flows into the Fall and Teton Rivers. Snow accumulates to great depths. High elevation lakes and creeks are common. Streams in the canyon bottoms support rainbow, cutthroat and brook trout.

Deer, elk, moose and black bear are fairly common. Bighorn sheep are rarely seen because of the difficulty of access to their habitat. There are heavy spruce bottom riparian habitats supporting picas, wolverines, and fishers. Old growth forest habitat supports unique nongame birds. The alpine cliffs are frequented by the unique black crowned rosy finch. The cliffs have historic peregrine falcon (an endangered species) nesting sites and are a potential habitat reintroduction area. The area is a travel corridor for the endangered grizzly bear and is a

potential expansion area for this species. The proposed area has several extant grazing permits.

### THE CORRIDOR ADDITION TO THE TETON WILDERNESS

The proposed addition is located in northwestern Wyoming about 40 miles north of Jackson. It is essentially an enclosure between Teton Wilderness and Yellowstone and Grand Teton National Parks. The area contains mountain peaks, picturesque cliffs and rock outcrops with some high alpine meadows. Most of the slopes are of moderate steepness. The highest elevation is Huckleberry Mountain, which is on a long fault, where vertical displacement exceeds 200 feet in some places.

Coniferous forests consists of Douglas-fir, Engelmann spruce, alpine fir, and lodgepole pine. They cover approximately 81 percent of the area. Other forested lands and brush plant communities make up about 14 percent while rocks, grass and water cover about five percent of the area.

The area provides habitat for the larger species of wildlife which includes elk, moose, and mule deer. Also threatened wildlife species such as grizzly bear, and possibly wolverine and wolf from Yellowstone National Park use the area. Other predators are coyote and black bear. The area may qualify for "critical habitat" designtion for grizzly bear under the Threatened and Endangered Species Act.

There are four significant streams that flow through the area with each having populations of cutthroat and brook trout. Arizona Lake lies within the area and does support a fishery of brook and cutthroat trout.

### LARAMIE PEAK AREA

Although this area is named after Laramie Peak, the peak itself is excluded from the wilderness recommendation due to the numerous electronic facilities located upon it. A corridor exclusion has also been made to provide for a 2.4 kv powerline and a motor bike trail built for access to the electronic facilities. This exclusion is approximately 180 acres and divides the proposed wilderness into two parts.

Elevations in the proposed wilderness range from 5,800 to approximately 10,000 feet, The numerous rocky peaks and ridges are very scenic. Vegetation is predominantly forest with a few grassy parks, aspen stands and sage-brush areas. The area contains several rather extensive stands of mature ponderosa pine. The major streams within the area are Roaring Fork, Lost Creek, Bear Creek, and Friend Creek.

Mule and whitetail deer, elk and few bighorn sheep and bear inhibit the area. None of the area is considered prime winter range, although big game will occasionally winter on some of the south exposure. Golden eagles have been sighted in the area.

### WHISKEY MOUNTAIN (GLACIER PRIMITIVE AREA ADDITION)

The world's largest bighorn sheep herd summer ranges are located throughout the Whiskey Mountain area, Jakey's Fork area and areas south of the Simpson-Marion Lake Basin. The bulk of the important bighorn sheep habitat contained in these areas was not recommended

by the Forest Service for designation as wilderness. Yet, the natural pristine nature of the habitat in these areas is the singular factor required by bighorn sheep for survival. The welfare of the bighorn sheep is a primary management consideration throughout the northern portion of the Fitzpatrick Wilderness. The principal factor in continued herd growth and viability is the preservation of a natural condition which wilderness insures.

Whiskey Mountain, the high point, serves as critical winter range for bighorn sheep herds. The grass-covered slopes, which are blown free of snow in the winter, offer vegetative contrast to the heavily-forested and rock glacier country in the adjacent Fitzpatrick Wilderness, and forage for the bighorns.

## Committee Amendments

The Committee adopted an amendment in the nature of a substitute to S. 2118, as introduced. The substitute adds five new areas to the National Wilderness Preservation System in Wyoming and makes three additions to existing wilderness areas. The substitute also clarifies the administrative provisions. The following is a discussion of the Committee proposed changes to S. 2118 as introduced.

### TITLE I—SHORT TITLE FINDINGS AND PURPOSES

The Committee amendment changed Section 102(b)(4) to clarify the intent of Section 302 of this Act.

It is the Committee's intent that the Forest Service still retain its authority to manage nonwilderness national forest lands in Wyoming for a wide spectrum of uses ranging all the way from near-natural management to full-scale development. Each area's management will be determined through the normal forest land use planning process or specific project plans. This intent is clearly spelled out in Section 102 (b)(4) which states that nonwilderness lands shall be managed for a wide variety of uses, except that they may not be managed as wilderness unless Congress so indicates. However, they may still be managed for such nonconsumptive uses as fish and wildlife protection, scenic enjoyment, recreation, and preservation of natural characteristics as well as timbering, mineral exploration and extraction, and other kinds of development. The Committee emphasizes that the list of uses in Section 102(b)(4) is not exhaustive and includes all uses authorized by law save wilderness.

### TITLE II—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

*Section 201(a). Cloud Peak Wilderness*

The Committee amendment proposes a 157,900 acre Cloud Peak Wilderness in the Bighorn National Forest which is the same as proposed in S. 2118 as introduced. The area proposed is approximately 900 acres larger than the Administration's recommendation for wilderness. This 900 acre area is on the East side of the proposed wilderness and was added to make a more manageable boundary.

*Section 201(b). Popo Agie Wilderness*

The Committee amendment proposes a 101,991 acre Popo Agie Wilderness in the Shoshone National Forest. The proposed Popo Agie Wilderness consists of RARE II roadless area A2901, the Popo Agie Primitive Area, and lands contiguous to the Primitive Area.

*Section 201(c). Gros Ventre Wilderness*

The Committee amendment proposes a 228,550 acre Gros Ventre Wilderness in the Bridger-Teton National Forest. The acreage is the same as in S. 2118, as introduced. The proposed Gros Ventre Wilderness is less in area than the RARE II proposal of 280,000 acres. The Committee amendment excludes the Little Granite area on the southwest corner of the area because of its high oil and gas potential. The Little Granite area lies above a portion of the Overthrust Belt, a major geologic formation running from Utah to Canada with tremendous, proven oil and gas reserves to the south and north. The Little Granite area has been leased for oil and gas and a drilling permit for an exploratory well has been granted, with road construction planned. Since current law and S. 2118 specifically protect valid existing rights, wilderness designation would not halt the well.

A joint DOA/DOI environmental impact statement on this well has concluded that proper management could mitigate or minimize most adverse impacts associated with the well. After extraction of the oil/gas and rehabilitation with proper management, the area could again be considered for wilderness suitability after the year 2000. The Committee expects the Forest Service to manage this area in a way as to protect its natural values while energy exploration and development is occurring, so that it can be reconsidered for wilderness suitability in the future after the year 2000.

While the remaining RARE II lands in the Bridger-Teton National Forest are to be managed for multiple uses other than wilderness, the Committee notes that there is strong local interest in managing them in such a way so as to protect elk calving and migration routes, other wildlife, recreation, and scenic values while allowing for timbering, mineral development, and other multiple uses. The Committee expects the Forest Service to carefully consider wildlife values as it makes land management decisions for these areas, and encourages the Forest Service to consider roadless timber extraction techniques and other protective management practices where they are practical and economical.

The Committee substitute made two changes in the bill as introduced. The northeast boundary of the proposed Gros Ventre Wilderness was drawn to include the Kinky Creek Area and exclude a corridor to allow for snowmobiling access from Union Pass and the Green River drainage to the Gros Ventre and Jackson Hole.

*Section 201(d). Jedediah Smith Wilderness*

The Committee amendment proposes a 116,855 acre Jedediah Smith Wilderiness in the Targhee National Forest which was not included in S. 2118, as introduced. The proposed area is smaller than the Administrations recommendation for wilderness. The Committee proposal leaves out approximately 7,500 acres primarily in the northern

portion of the proposed area that has high timber values. The eastern boundary of the proposed area is contiguous to Grand Teton National Park. The Committee expects the Forest Service and National Park Service to continue to coordinate management for the proposed wilderness and Grand Teton National Park backcountry.

*Section 201(e). Laramie Peak Wilderness*

The Committee amendment proposes a 27,400 acre Laramie Peak Wilderness in the Medicine Bow National Forest which was not included in S. 2118, as introduced. The proposed area is made up of a northern and southesn unit, separated by a nonwilderness corridor approximately ¼ mile wide which runs up the west side of Laramie Peak, across the top of the peak, and down the east side. This corridor includes a trail for motorcycles, a power transmission line, and a major electronic site on top of Laramie Peak. This site serves as a vital link for radio and television transmissions to much of Wyoming as well as Nebraska and Colorado. The electronic site includes transmission towers, buildings with electronic equipment, a helicopter landing site, and other facilities which are owned and operated both by the Forest Service and private owners under a number of renewable special use permits. Service is via helicopter or motor scooter up the trail. The peak and the corridor are totally excluded from the Laramie Peak Wilderness Area.

The Committee expects the facilities on the peak and uses of the corridor to remain unimpaired by the designation of Wilderness on both sides of the corridor. Wilderness designation for this area will not prohibit the Forest Service from granting permits and allowing uses on the Peak and in the corridor consistent with existing and future communications and power transmission needs.

*Section 201(f)(1). Dunoir Addition to the Washakie Wilderness*

The Committee amendment proposes an 11,100 acre DuNoir Addition to the Washakie Wilderness in the Shoshone National Forest identical to that proposed in S. 2118 as introduced. The Reagan Administration has recommended the same area and acreage. In Section 201(f)(2), the Committee amendment restricts the use of any roads to be constructed in the special Management Unit as established by P.L. 92–476, and not designated by this Act as wilderness to those uses and related administrative uses. The roads are not to be available for general public travel. The Committee expects the Forest Service to closely monitor wildlife migrations and habitat areas before allowing roads to be constructed and to regulate authorized uses of such road to protect wildlife values. This paragraph does not authorize the construction or use of roads in the proposed DuNoir Addition to the Washakie Wilderness. Section 201(f)(3) repeals Section 5 of P.L. 92–476 (86 Stat. 792) which prohibited the construction or expansion of roads in the special Management Unit.

*Section 201(g). Corridor Addition to the Teton Wilderness*

The Committee amendment proposes a 28,156 acre Corridor Addition to the Teton Wilderness in the Bridger-Teton National Forest not included in S. 2118 as introduced. The proposed addition consists of RARE II roadless area 04101.

The Committee amendment provides for several small hunter enclaves which have been left ouside of the wilderness boundary at key access points so that hunters and others can continue to drive into them and park or camp as they have in the past.

The Committee notes that there is an abandoned, rustic, log fire outlook on Huckleberry Ridge which was constructed in the 1930's. The building has historic value and will be used by the Forest Service for monitoring the Wilderness Natural Fire Program.

*Section 201(h)(1). Glacier Addition to the Fitzpatrick Wilderness*

As in S. 2118 as introduced, the Committee amendment proposes a 6,497 acre Glacier Addition to the Fitzpatrick Wilderness in the Shoshone National Forest. This area was designated by Congress as the Glacier Primitive Area by Public Law 94–567 after being *included* in the Fitzpatrick Wilderness as established by Public Law 94–557.

The area is winter range for a large herd of bighorn sheep. The Forest Service and Wyoming Game and Fish Department conduct extensive surveys, trapping operations, tagging and transporting the sheep to other areas. The Committee expects these administrative operations to continue unimpaired by wilderness designation. Section 201 (h)(2) authorizes motorized access for these purposes and the proper management of the bighorn sheep population. This language does not authorize hunting with the use of motorized vehicles or the construction of roads.

Section 202 provides for the filing of maps and legal descriptions of the proposed areas.

Section 203 is self explanatory

## Title III—Release of Lands for Multiple Use Management

Section 301. The Committee amendment makes Congressional findings that both the Department of Agriculture and Congress have reviewed and examined national forest roadless areas in Wyoming.

Section 302(a). Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environment Statement insofar as its consideration of wilderness in more than 40 areas in the State of California. In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in the *State of California* v. *Bergland*, 483 F. Supp. (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wildernees alternative for the specific areas challenged. Judge Karlton enjoyed any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture.

While this court decision affects only the State of California, there has been considerable concern that similar suits might be filed in other States which would seriously disrupt the management of the national forest system.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation Sys-

tem. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in Wyoming for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Environmental Statement insofar as national forest system lands in Wyoming are concerned is unnecessary. Therefore, the bill provides that the Final Environmental Statement is not subject to judicial review with respect to national forest system lands in Wyoming.

In the course of developing this language, concerns were raised about the potential impact of the "no judicial review" language on any litigation that might arise in other States concerning the RARE II Environmental Statement. The RARE II Final Environmental Statement is a single statement covering all States. A separate Final Environmental Statement was not issued for each State. Therefore, some expressed concern that insulating the statement from judicial review insofar as lands in Wyoming are concerned would be taken to imply that the statement was legally and factually sufficient for lands in other States. By contrast, others expressed concern that providing an exception for judicial review only after a Congressional review of roadless areas in Wyoming would imply that the Final Environmental Statement was deficient in States where such Congressional review has not take place. The Committee, therefore, expressly States in the legislation that it is not passing on the question of the legal and factual sufficiency of the Final Environmental Statement with respect to national forest lands in States other than Wyoming. The Committee has not addressed that question and takes no position on it directly or impliedly. It should be noted, however, that the Senate has passed language similar to this regarding judicial review of the RARE II EIS in Oregon, Colorado, New Mexico, and Alaska.

Section 302(b). The RARE II process during 1977–79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act (NFMA) of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the national Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System must be considered during the planning process for those lands which may be suited for the wilderness. The Forest Service is presently developing the initial, or "first-generation," plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985. As one of the goals of RARE II was to consider the wilderness potential of all national forest roadless areas, the Forest Service regulations for implementing the National Forest Management Act (36 CFR 219.12(3), Federal Register, September 17, 1979, p. 53988) provide that lands designated by RARE II for multiple uses other than wilderness needed not again be considered for wilderness in the course of developing the "first generation" plans.

The Committee believes that further consideration of wilderness during development of the initial plans for the national forest system roadless area in Wyoming not designated as wilderness upon enact-

ment of S. 2118 would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress.

Beyond the initial plan, lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are to be completed by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide for revision at least every ten years.

The bill, as reported, provides that the Department of Agriculture cannot review the wilderness option until the first planning cycle after December 31, 2000. Chief of the Forest Service Max Peterson has indicated that, in his view, most plans will be in existence for approximately ten years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with forest plans to be in effect by late 1985, the time of revision for most plans will begin in approximately 1993.

Chief Peterson has indicated that revision of plans generally would begin approximately two years before a new plan is to be put into effect. Although continuing forest inventories and other data gathering used in the plan revision process may well begin some years ahead of the actual revision, this inventorying process should not be considered a part of the revision time period. The Committee intends that the revision process should be considered to commence when the Forest Service publishes in the Federal Register its announcement of the beginning of the Draft Environmental Impact Statement process for the plan being developed.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a situation would completely frustrate the orderly management of non-wilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act.

To eliminate any possible misunderstanding on this point, the bill provides that all National Forest lands in Wyoming not designated as wilderness, shall be managed for multiple uses other than wilderness. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of Section 6 plans is required only for those lands which may be suited for wilderness at the time of the initiation of such future planning after December 31, 2000. There is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness.

For example, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course,

manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation begun after December 31, 2000, if the particular land in question still possesses wilderness attributes. But the statute prohibits the FS from directing that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

The final issue addressed by the Committee in Section 320(c) of S. 2118, as reported, pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III".

The Committee substitute makes four RARE II areas in southwest Wyoming in the Medicine Bow National Forest which the Forest Service recommended for wilderness designation available for uses other than wilderness. Snowy Range, Platte River, Encampment River, and Huston Park. The Snowy Range area is a popular snowmobile area for 100 to 200 snowmobilers on a good winter weekend. The Platte River, Encampment River, and Huston Park areas are in a region which is being studied by the Wyoming Legislature and state agencies for water development projects which would serve an eight-county area and such major population centers as Cheyenne, Laramie and Casper. Wilderness designation of these areas could hinder proposed water development in the Medicine Bow National Forest. The Committee recognizes that all four of these areas are highly scenic and popular recreation areas for many people in southeast Wyoming and should be protected. The Committee expects the Forest Service to continue to manage these four areas in the Medicine Bow National Forest to protect their recreational and scenic values, but allow water development activities to take place in accordance with current state and federal laws and regulations.

### TITLE IV—WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM OPERATION OF MINING AND MINERAL LEASING LAWS

Section 401. The Committee amendment would, upon enactment, permanently withdraw lands in the National Forest System in Wyo-

ming which have been previously designated by Congress as components of the NWPS and lands so designated by this Act from all mineral and geothermal leasing and from all forms of appropriation under the mining laws, subject to valid existing rights.

The Committee amendment does *not* limit the withdrawal to specific minerals. The withdrawal is applicable only to existing components of the NWPS in the National Forest System in Wyoming established by Congress and the components established by Congress in this Act. The withdrawal does not apply to components of the Wilderness System which may be established by Congress in the future. The withdrawal does not apply to areas proposed as wilderness, wilderness study areas or further planning areas of RARE II.

TITLE V—ASSESSMENT OF MINERALS, PROHIBITION OF DRILLING

Section 501(a). The Committee amendment restates the intent of section 4(d)(2) of the Wilderness Act and anticipates that the U.S.G.S. and Bureau of Mines mineral assessment studies will continue at present levels of assessment in Wyoming subject to the ban on exploratory drilling for oil and gas in any congressionally designated unit of the NWPS in Wyoming.

Section 502(b). Prohibits exploratory drilling within the boundaries of any unit described have for the purpose of assessing oil and gas potential. Slant drilling from outside the wilderness boundaries would be permissable. However, leasing would be prohibited in the wilderness under the proposal. Seismic activities are not prohibited by the proposal and would be permissable under current law and FS regulations.

Section 502. The Committee amendment sets up a process for opening any Wyoming wilderness area to minerals exploration, development, or extraction. The process begins when the President finds that there is an urgent national need for the minerals activity and that such national need outweighs other public values of the wilderness lands involved and the potential adverse environmental impacts which are likely to result from the activity. The President then may transmit a recommendation to Congress, with a copy to the Governor of Wyoming and with notice in the Federal Register, that minerals activity be permitted in a specified area or areas. The recommendation must be accompanied by a detailed report, a statement of the conditions and stipulations to govern the recommended activity, and an environmental impact statement, if one is required or is considered desirable. Any recommendation takes effect only if Congress enacts a joint resolution of approval within 120 calendar days of continuous session of Congress after receipt of the recommendation. Language in section 502 spells out congressional procedures for consideration of such an approval resolution.

TITLE VI—MISCELLANEOUS PROVISIONS

Section 601. The Committee amendment includes language regarding grazing activities in wilderness areas in Wyoming. This language was included to help insure that the Forest Service implements the guidelines on this subject included in the House report (96–617).

Under guidelines formed by the Senate and House Committees having jurisdiction over wilderness designation and management (1)

there will be no curtailment of grazing in wilderness areas, (2) maintenance of existing fences, line cabins, stock tanks, water wells, lines and other support facilities is permissible, (3) natural materials need not be required for the replacement or reconstruction of deteriorated facilities, (4) the construction of new improvements is permissible, and (5) motorized equipment may be used for emergency purposes.

## Cost and Budgetary Considerations

The Committee does not anticipate any additional budgetary impact from enactment of S. 2118. To designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The measure (S. 2118) does not authorize any additional budget authority. The Committee intends that any fiscal year 1983 costs associated with implementation of the bill be absorbed within funds otherwise available to the Department of Agriculture.

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
*Washington, D.C., September 17, 1982.*

Hon. James A. McClure,
*Chairman, Committee on Energy and Natural Resources,*
*U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2118. the Wyoming Wilderness Act of 1982, as ordered reported by the Senate Committee on Energy and Natural Resources, September 15, 1982.

This bill adds approximately 678,449 acres of national forest system lands in Wyoming to the national wilderness preservation system and stipulates that all lands designated as wilderness in the State of Wyoming are to be withdrawn from all forms of mining and minerals activities. The bill also directs the Secretary of Agriculture to review livestock grazing practices in wilderness areas in Wyoming. Based on information from the National Forest Service, it is estimated that additional costs to the federal government resulting from the surveying, planning and related activities necessary to implement the wilderness withdrawals will be approximately $250,000 per year during the next three fiscal years.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. However, the reduction in the timber base that will occur as a result of enactment of S. 2118 is not expected to result in any lost timber receipts to the federal government, because the actual cut in the affected forests does not approach the maximum set by their annual potential yields.

The bill also withdraws lands designated as wilderness in Wyoming from mineral activity. This provision could have a significant budget impact because geologic information indicates that a number of areas involved have a high mineral potential. However, because there is very little inforamtion available regarding the potential value of such minerals, no estimate of the possible loss in federal mineral leasing receipts can be made.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
*Director.*

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2118 as reported. S. 2118 would designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2118.

## EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendations relating to S. 2118 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
*Washington, D.C., September 22, 1982.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 2118, a bill "To designate certain National Forest System lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes."

The Department of Agriculture recommends that the bill be enacted with the amendments suggested herein.

S. 2118 would designate three new wildernesses and one addition to an existing wilderness in the State of Wyoming. These designations would add about 479,370 acres to the National Wilderness Preserva-

tion System in the State of Wyoming. The bill includes additional provisions that would release all other lands identified in the second roadless area review and evaluation (RARE II) for other multiple use activities, it would withdraw designated wildernesses in Wyoming from mineral activity, and it would provide for continued assessment of mineral potential in designated wilderness with provisions for mineral development and production in cases of urgent national need.

The previous Administration, as a result of RARE II, recommended nine new wildernesses and five wilderness additions in the State of Wyoming for a total of 996,400 acres.

All four wildernesses included in S. 2118 are roadless or undeveloped areas on National Forest System lands in Wyoming that were included in RARE II. We concur with the proposed 11,100-acre DuNoir addition to the Washakie wilderness. Although, the boundaries of the three proposed wildernesses differ from those proposed in RARE II, the majority of the lands included in the bill were recommended for wilderness as a result of RARE II and we have no objections to the revised boundaries as proposed. One minor exception is a 1,900-acre portion of the proposed Cloud Peak wilderness included in S. 2118 that was part of the Cloud Peak Primitive area and not previously endorsed for wilderness. In 1974, the Forest Service recommended the Coffeen Park area not be designated because of a constructed dam and wagon roads, mine shafts, deserted cabins, and other evidence of man's imprint. The proposed wilderness would be enhanced if this area was not designated.

We believe S. 2118 generally reflects a well balanced proposal that includes wilderness designation and release provisions. We do recommend that the release provisions be strengthened to facilitate long range planning and to resolve the issue of wilderness additions in the State of Wyoming. If during the future deliberations on this bill the Committee wishes to consider additional areas for wilderness, we would urge that only areas recommended for wilderness in RARE II be considered as additions to the Wilderness System.

We recommend that section 201(4)(B) regarding special management for the Washakie area be deleted from the bill. Section 201(4)(B) as written would appear to lead to construction of single purpose roads. A road constructed for minerals exploration could not later be used for other authorized uses such as timber harvest or range administration. We believe the forest plan for the Shoshone National Forest can adequately consider the needs of the resident and migrating elk herds and other wildlife in the area (approximately 17,700 acres) identified as the DuNoir Special Management Unit. In forest planning, the Forest Service works closely with the State Fish and Game agencies and interested publics and groups on planning related to wildlife.

We strongly support the provision to abolish the Glacier Primitive Area classification on approximately 6,497 acres known locally as Whiskey Mountain. This action will correct a long standing management problem. The general area has one of the largest bighorn sheep herds in the world. This is a major source of animals for restocking elsewhere. Approximately 200 head of sheep are trapped each year;

motorized access in the area is necessary to trap and transport these animals.

Title IV provides for a withdrawal of designated wilderness from operation of the mining and mineral leasing laws subject to valid existing rights. Coupled with section 502(a) that provides for a Presidential finding of urgent national need for mining in wilderness and the release provisions of section 302, we believe the bill strikes a reasonable balance providing protection for the wilderness resource while, at the same time, making available certain RARE II inventoried lands for other uses and providing a mechanism for extraction of minerals in wilderness if there is an urgent future need. This bill would end the long uncertainty regarding RARE II in Wyoming.

We ask that the Committee clarify the intent of section 501(b). It is unclear without more specific language whether seismic exploration is permitted, or whether the authors intended distinctions between seismic holes and deep exploratory drilling. Other than this clarification, we support the provisions of section 501.

We have no objections to the miscellaneous provisions of title VI dealing with grazing, water laws, and buffer zones.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
*Secretary.*

## ADDITIONAL VIEWS OF MR. WALLOP

On behalf of the 3-member Wyoming congressional delegation, let me express my pleasure at the Senate Energy and Natural Resource's Committee's action in reporting S. 2118 by a vote of 17–0.

This legislation is our joint effort to resolve two major areas of controversy over management of Wyoming's national forests: First, the possibility of oil, gas and mineral development in Wyoming's wilderness; and second, the unfinished business of RARE II.

Both of these issues must now be put to rest. Millions of acres of forest lands in Wyoming were tied up in the Forest Service's RARE I and RARE II wilderness reviews throughout the 1970's, leaving much of our forest system in management limbo and industries and communities which rely on forest products unable to plan for the future. The Forest Service has administratively released many lands for multiple use, but they are still subject to a lawsuit such as the one which has blocked orderly development and management on millions of forest acres in California. The Forest Service also has recommended that other lands be designated as wilderness, to be managed as wilderness until Congress acts. Some of these areas deserve such status and should be accorded it; others are more valuable for other uses, and should be released for nonwilderness management.

In the meantime, another issue has reared its head—oil and gas leasing and development in wilderness. This is not, of course, an entirely new issue. The Wilderness Act of 1964 specifically allows mineral leasing and development in wilderness areas until 1984, and Secretary of the Interior Cecil Andrus and others had let dozens of leases in wilderness before the Reagan administration took office. Nonetheless, this administration's activities on this subject caused great consternation. In Wyoming, the Forest Service's proposal to lease part of the beautiful Washakie Wilderness near Yellowstone and Grand Teton National Parks aroused strong, vocal public opposition in my State. I have consistently opposed leasing in wilderness because these are special areas which have been set aside to be preserved in their pristine condition, and because it is clear that the American public does not want oil rigs in wilderness. I worked with others in Congress to persuade both the oil industry and DOI not to press for development in wilderness, and earlier this year, Secretary Watt promised not to lease in wilderness throughout the rest of this session, in order to give Congress a chance to review this issue. Senator Simpson, Congressman Cheney, and Governor Herschler of Wyoming agreed that legislation was needed to withdraw Wyoming forests from any threat of leasing. And in February the Wyoming Wilderness Act of 1982 was born.

Since then this legislation has been the subject of 4 hearings and workshops designed to solicit public opinion on the proposal. In March, the House Interior and Insular Affairs Committee held a hearing in Cody, Wyoming, on this bill and others. On April 30 I chaired a sub-

committee hearing in Casper, Wyoming where we heard from some 90 witnesses over the course of 9 hours. The next day the congressional delegation held a workshop in Riverton, Wyoming on the bill. Last month, I chaired another hearing in Washington, D.C. Throughout these sessions, and by phone, mail, and talking to people, the delegation received thousands of comments about our bill. Throughout the process we repeated that we wanted to hear suggestions and that the bill was not set in concrete. We took these comments, along with all of those gathered during RARE I and RARE II, and carefully reviewed them all. As a result, we decided to make certain changes to our bill. We recently announced that we would add to our original proposal for 480,000 acres of wilderness some 200,000 additional acres, to bring the bill to its present level of almost 680,000 acres. Since some people expressed a concern that our bill mandated development on every non-wilderness acre, we also added language ensuring that the Forest Service would still be able to manage released lands for a wide spectrum of uses, including backcountry-like management.

This bill has been controversial in Wyoming. The Sierra Club and extreme environmental groups who want to increase the amount of wilderness in Wyoming from the present 23 percent to over 50 percent of all our national forest lands cry that our bill does not designate enough wilderness. Lined up on the other side are those who do not want to see one more acre added to Wyoming's wilderness system, and who point out that Wyoming already has a greater percentage of wilderness on its forests than just about any other State in the country. In between are the vast majority of Wyoming citizens who want to find a balance, who are proud of the fact that Wyoming is blessed with beautiful wilderness areas but who also want forest lands where they can drive to hunt and fish, which are available for responsible timber, energy and water development to provide jobs and keep our economy running.

No bill can satisfy everyone, but S. 2118 is aimed at balancing those competing interests and making good resource management decisions. It designates more new wilderness units in Wyoming than any bill in history. It ensures that those areas will not be subject to oil and gas development. And it releases millions of acres for multiple use management, free from the threat of lawsuit or more wilderness study until the year 2000. It is a fair bill, and it will allow us to get on with managing Wyoming's national forests without the present cloud of uncertainty.

Let me add one final point. During the course of our hearings, one of Wyoming's preeminent leaders in fish and wildlife protection and management proposed an intermediate classification between multiple use and wilderness. Wyoming State Senator John F. Turner, Chairman of the Travel, Recreation and Wildlife Committee in the Wyoming State Senate and an outfitter in Moose, Wyoming, proposed that S. 2118 designate a number of RARE II areas in Wyoming as Wyoming Roadless Resource Areas (WRRA's). Under the belief that certain lands deserve special protection but also have resources which should be developed, Senator Turner proposed that specified lands with high wildlife, recreation, and scenic values be managed in a substantially roadless, natural manner, but with some resource development still per-

mitted. For example, limited timbering could occur under certain conditions, but any roads built for that purpose would have to be obliterated afterwards, and roadless timber techniques would be encouraged.

For a long time I've been intrigued with this kind of mid-level management concept. Others in Congress, academia, and the administration have also talked about it, generally under the label of "backcountry." However, environmental groups and the Forest Service have traditionally opposed it. Environmentalists have fought the concept for years, arguing that a backcountry designation poses a threat to wilderness because lands which they want in wilderness status might be designated in this lesser category. The Sierra Club in Wyoming warned that WRRA's would not substitute for full wilderness protection on the 2.4 million acres in its proposal, although the concept might have merit elsewhere. A major environmental publication in the Rocky Mountain area editorialized against such "wilderness alternatives," arguing politicians should be forced to choose between wilderness and multiple use so every one can judge their priorities. This notion that one is either "for" or "against" a prescribed amount of pure wilderness, and cannot suggest flexible management alternatives, is an anathema to the concept of good resource management. Meanwhile the Forest Service also opposes legislative backcountry on the grounds that it already has the authority to manage lands in this manner. This is true, but it ignores the fact that some people don't trust the Forest Service to do so. This may be a p.r. problem or a difference in management outlook, but the fact is that struggles are going on, and a permanent backcountry designation might give everyone some certainty that lands will be protected to a certain degree.

While it was unfortunate that no consensus emerged on this idea during consideration of the bill, Senator Turner has performed an invaluable service in bringing up the idea and getting people in Wyoming and across the country to think about it. His stature in the Wyoming environmental community has caused that group to take a second look at the concept, and some rumblings of interest are emerging. Both the Forest Service and industry would do well to give this concept some thought. It may not be the be-all and end-all to our problems, and we may indeed not need many such areas, but WRRA's or backcountry designations are creative suggestions for solving some real problems and deserve more serious consideration. I commend Senator Turner for bringing this debate into sharp focus, and hope in the future the discussion can be more philosophical and less reactionary than it has been to date.

MALCOLM WALLOP.

## CHANGE IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2118 as ordered are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AN ACT To designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forrest, in the State of Wyoming, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Stratified Primitive Area, with the proposed additions thereto and deletions therefrom, comprising an area of approximately two hundred and eight thousand acres as generally depicted on a map entitled "Washakie Wilderness—Proposed," dated June 15, 1967, revised September 12, 1970, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated for addition to and as a part of the area heretofore known as the South Absaroka Wilderness, which is hereby renamed as the Washakie Wilderness.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Washakie Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Stratified Primitive Area addition to the Washakie Wilderness shall be administered as a part of the Washakie Wilderness by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Stratified Primitive Area is hereby abolished.

[SEC. 5. (a) Within the area depicted as the Special Management Unit on the map referred to in section 1 of this Act, the Secretary of Agriculture shall not permit harvesting of timber or public or private vehicular use of any existing road, and shall not construct or permit the construction or expansion of any road in said Special Management Unit. The Secretary shall administer said unit in accordance with the laws, rules, and regulations relating to the national forests especially to provide for nonvehicular access recreation and may construct such facilities and take such measures as are necessary for the health and safety of visitors and to protect the resources of said unit: *Provided, however*, That this section shall not affect such vehicular use and maintenance of existing roads as may be necessary for the administration of said unit by the Secretary of Agriculture.

(b) The Secretary of Agriculture shall initiate a continuing study of the Special Management Unit and at the end of the five-year period following the enactment of this Act shall recommend to the President and the Congress what he considers to be the area's highest and best public use.

(c) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the area referred to in subsection (a) with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as included in this Act: *Provided, however*, That corrections of clerical and typographical errors in such legal description and map may be made.]

Approved October 9, 1972.

○

Calendar No. 847

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-577

# NATIONAL TRAILS SYSTEM ACT AMENDMENTS

SEPTEMBER 23 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

[To accompany H.R. 861]

The Committee on Energy and Natural Resources to which was referred the act (H.R. 861) to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the act as amended do pass.

The amendments are as follows:

1. On page 7 delete lines 8 through 23, and on page 8 lines 1 through 8, and insert in lieu thereof the following:

> (b) Section 5(b) of the National Trails System Act is amended—
>
> (1) by inserting after the second sentence the following: "The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and whether the development of a trail would be financially feasible.";
>
> (2) in paragraph (b)(3), by inserting "16" before "U.S.C."; and
>
> (3) in paragraph (b)(11)(B) by inserting the word "exploration," after "commerce," in the first sentence.

2. On page 9 delete lines 20 and 21, and insert in lieu thereof the following:

> (29) Beale Wagon Road, within the Kaibab and Coconino National Forests in Arizona: *Provided*, such study may be prepared in conjunction with ongoing planning processes for these National Forests to be completed before 1990."

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3. On page 11, line 5, insert the word "appropriate" before the word "Secretary".

4. On page 12, line 21, delete "; and" and insert a period.

5. On page 12 delete lines 22 through 24.

6. On page 13 between lines 14 and 15 insert a new subsection (d) and reletter the following subsections accordingly:

> (d) Section 7(e) of the National Trails System Act is amended by—
>
> (1) deleting reference in the first sentence to "subsection (g)" and substituting, in lieu thereof, "subsection (f)"; and
>
> (2) by deleting the period at the end of the first sentence, and in lieu thereof, subbsttiuting a colon and the following proviso: "*Provided further*, That the appropriate Secretary may acquire lands or interests therein from local governments or governmental corporations with the consent of such entities.".

7. On page 13 delete lines 18 through 25, and on page 14 lines 1 through 3 and insert in lieu thereof the following:

> (2) In acquiring lands or interests therein for a National Scenic or Historic Trail, the appropriate Secretary may, with consent of a landowner, acquire whole tracts notwithstanding that parts of such tracts may lie outside the area of trail acquisition. In furtherance of the purposes of this act, lands so acquired outside the area of trail acquisition may be exchanged for any non-Federal lands or interests therein within the trail right-of-way, or disposed of in accordance with such procedures or regulations as the appropriate Secretary shall prescribe, including: (i) provisions for conveyance of such acquired lands or interests therein at not less than fair market value to the highest bidder, and (ii) provisions for allowing the last owners of record a right to purchase said acquired lands or interests therein upon payment or agreement to pay an amount equal to the highest bid price. For lands designated for exchange or disposal, the appropriate Secretary may convey these lands with any reservations or covenants deemed desirable to further the purposes of this act. The proceeds from any disposal shall be credited to the appropriation bearing the costs of land acquisition for the affected trail.

8. On page 14, line 17, insert the words "acquisition, protection," before the word "operation".

9. On page 14, line 23, delete the word "Such" and insert the words "The appropriate".

10. On page 17, line 3, add the following new sentence:

> The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a federal con-

servation policy and yield a significant public benefit for purposes of Section 6 of Public Law 96–541.

11. On page 19, line 25, insert a comma after the word "Interior", delete the word "and" and after the word "Agriculture" insert "and the head of any Federal agency administering lands,".

12. On page 20, line 11, and on page 21, lines 1 and 5, after the word "Secretary" insert "or the head of any Federal land managing agency".

13. On page 22 delete lines 13 through 25, and lines 1 through 11 on page 23.

## Purpose of the Measure

H.R. 861, as reported, establishes three new scenic trails, two of which are to be administered by the National Park Service and one by the United States Forest Service. Six trail routes are authorized for study. The Act provides for a mechanism to encourage and assist volunteer groups and citizen involvement in the Nation's trails development program.

## Background and Need

The National Trails System Act of 1968 was intended by the Congress to be a generic measure through which the outdoor recreation opportunities of America could be expanded by the development of a nationwide program to establish and maintain trails of various kinds. Two national scenic trails—the Appalachian Trail, running from Maine to Georgia and the Pacific Crest Trail, running through California, Oregon, and Washington—were established. Several additional trail routes were designated for study under the terms of the Act, with reports to be made to the Congress for possible later designation as national scenic trails. The Act also contained provisions for the administrative establishment of national recreation trails.

The 94th Congress conducted oversight hearings on the Act, and also enacted legislation designating additional routes for study under the Act. The oversight hearings revealed that the federal agencies were not moving expeditiously to implement the provisions of the original Act with respect to the protection of the designated trails. Completion of the required studies was slow, thus frustrating any rapid expansion of the system. Concerns were also expressed that numerous trail routes being studied did not lend themselves to the national scenic trail designation but had significant historical values.

The 95th Congress responded to these concerns with the enactment of amendments to the Act which established an expedited program to complete the protection of the Appalachian Trail. Further amendments established a new category of national historic trails under the parent Act, and designated several additional components of the national system.

The hearings and related discussions during these recent sessions of the Congress brought forth several points from the trails community

and agency professionals also responsible for the implementation of National Trails Systems Act in the Department of Agriculture and the Interior. There was a consensus that the diverse needs of various types of trails users could not be met by Federal agencies alone. Volunteer efforts by interested trail users themselves, working in concert with various levels of Government, have been highly effective in expanding trail recreation opportunities at low cost. Finally, with a decade of experience under the 1968 Act to draw upon, there was a sense that a number of adjustments to the Act could be made to enhance the ability to advance trail recreation programs in a variety of ways.

The product of that effort, H.R. 8087, was reported by the House Committee on Interior and Insular Affairs and subsequently adopted by the House of Representatives on September 22, 1980. Although the Senate later approved a modified text of H.R. 8087 as part of another measure, disagreement with other items not related to the trails measure prevented the final enactment of the legislation.

H.R. 861, as reported, is a refinement of the measure which was approved by the House of Representatives during the 96th and 97th Congress. The bill, as introduced in the House contained the text approved by the Senate in 1980. Following additional hearings in 1981, the House committee recommended a revised text which eliminates most of the items which could require future Federal expenditures. The House amended text is also more cautious in designating any additional components of the national trails system, deleting several proposed national historic trails in order to permit additional review by the Department of the Interior. Additional recommendations reflect continuing efforts to encourage the expansion of trail recreation opportunities across the Nation at low cost. H.R. 861 places a greater reliance on citizen participation than ever before to accomplish the purpose of the National Trails System Act of 1968.

H.R. 861, as reported, further amended the House passed Act to include: several clarifying amendments; expansion of the volunteer authority to other land managing agencies besides the NPS and Forest Service; the deletion of a section limiting the imposition of entrance fees or admission to certain Federal areas.

H.R. 861 passed the House on May 11, 1982. A hearing before the Subcommittee on Public Lands and Reserved Water was held on August 4, 1982. The Administration in testimony given before the Subcommittee supports H.R. 861 if amended. At a business session on September 15, 1982, the Committee on Energy and Natural Resources ordered H.R. 861, as amended, favorably reported.

## Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on September 15, 1982, by unanimous vote of a quorum present recommends that the Senate pass H.R. 861 with amendments as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

| YEAS | NAYS |
|---|---|
| Mr. McClure | |
| Mr. Hatfield | |
| Mr. Domenici | |
| Mr. Wallop | |
| Mr. Warner* | |
| Mr. Humphrey* | |
| Mr. Murkowski | |
| Mr. Nickles | |
| Mr. East* | |
| Mr. Heinz* | |
| Mr. Jackson | |
| Mr. Johnston* | |
| Mr. Bumpers | |
| Mr. Ford | |
| Mr. Metzenbaum | |
| Mr. Matsunaga* | |
| Mr. Melcher | |

*Indicates voted by proxy.

## Committee Amendments

The Committee adopted 13 amendments primarily clarifying in nature. For a complete section-by-section analysis of H.R. 861, see House Report 97–267, pages 11 through 18.

The Committee amendments are as follows:

1. Section 205(b) was amended to clarify that the feasibility of designating a trail is determined by physical potential of locating the trail and the costs associated with construction and acquisition.

The amendment conforms the House passed language to the existing structure of the National Trails System Act after amendatory language was removed on the House floor.

2. Section 205(c) was amended to direct the Secretary of Agriculture to study that portion of the Beale Wagon Road within the Kaibab and Coconino National Forests as part of the ongoing Forest Service Management Planning process. The study of the remaining 80 percent of this trail is deleted. Approximately 20 percent of the proposed trail is located within National Forest System land and the remaining 80 percent on other public and private land which would normally be studied by the Department of the Interior.

3. Section 206 was amended to clarify that the word "Secretary" means the appropriate Secretary, so as to apply authorities to both the Secretaries of Agriculture and the Interior.

4. and 5. Section 207(a) was amended to remove a redundancy. The House language purports to make clear that development and management of various trails are to be compatible with multiple use plans

consistent with the purposes of this Act. However, the existing language of the Act provides that trails will "harmonize with and complement any established multiple use plans." The additional language in the House version is not needed to clarify any identified ambiguity in the existing language and is thus deemed redundant. It is not the intent of this bill to in any way affect the existing multiple use management of national forests through which trails pass.

6. Section 207 is amended by deleting the section and inserting a new section. This amendment:

1. Corrects an existing error in the National Trails System Act; and

2. Adds a proviso which authorizes the acquisition of lands or easements from counties, local governments and municipalities for trail rights-of-ways, with their consent.

7. Section 207(d) is amended by deleting the subsection and inserting a new subsection.

The rewritten language embodies the same concepts as those in the House passed version, except that the independent and concurrent authorities of the Secretaries of the Interior and Agriculture are made more explicit, and the disposal processes are clarified to be consistent with existing authorities of the Secretary of the Interior in Public Law 90–401 including disposal at fair market value to the highest bidder, and as right of first refusal in the last owner of record.

8. Section 207(f) is amended to clarify that the appropirate Secretary may utilize all cooperative authorities to work with governmental and private organizations in the acquisition and protection of trail lands. This language is particularly intended to encourage cooperation with private land trusts and similar conservation organizations in the protection of trail rights of way and adjacent lands.

9. Section 207(g) is amended to clarify that the "appropriate" Secretary shall consult with States. The appropriate Secretary may be either the Secretary of Agriculture or the Secretary of the Interior.

10. Section 207(h) is amended to establish the Congressional intent that easements donated pursuant to this provision shall have the same tax benefits to the donor as provided in P.L. 96–541.

11. and 12. Section 210 is amended to allow other land managing agencies, besides the Park Service and Forest Service, to utilize the volunteer authorities granted by this section in the promotion of trail maintenance and use. The amendments will logically expand the use of volunteers to the Bureau of Land Management, Tennessee Valley Authority and other federal land managing agencies.

13. Section 211 is amended to delete the provision that would have limited the imposition of entrance fees or admission at certain federal areas including components of the National Trails System. The issue of admission and entrance fees has impact much broader than trails, and the public policy implications should be considered in a broader context than this trails bill.

## Cost and Budgetary Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., September 20, 1982.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 861, a bill to amend the National Trails System Act by designating additional national scenic and historic trails and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 861.

2. Bill title: A bill to amend the National Trails System Act by designating additional national scenic and historic trails and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, September 15, 1982.

4. Bill purpose: This bill establishes three new scenic trails, assigns names for a trail and a forest area and requires studies of six new trail routes. It directs the Secretary of the Interior to submit to the Congress a National Trails System Plan at the beginning of fiscal year 1983 and at the beginning of every second fiscal year thereafter. The bill expands the scope of the management plans for new trails to include plans for protecting certain historic sites and developing the trails.

H.R. 861 authorizes the appropriation of $2.5 million for acquiring lands and developing the Natchez Trace Trail, and such sums as may be necessary to implement the remaining requirements of the bill. The authorization is effective for the fiscal year beginning on October 1, 1982, and for subsequent fiscal years.

5. Cost estimate:

| | *Millions* |
|---|---|
| **Estimated authorization level:** | |
| **Fiscal year:** | |
| 1983 | $3.5 |
| 1984 | ---- |
| 1985 | .1 |
| 1986 | ---- |
| 1987 | (1) |
| **Estimated outlays:** | |
| **Fiscal year:** | |
| 1983 | 1.5 |
| 1984 | 1.3 |
| 1985 | .8 |
| 1986 | (1) |
| 1987 | (1) |

[1] Less than $50,000.

The costs of this bill fall within budget function 300.

6. Basis of estimate: It is assumed for the purpose of this estimate that H.R. 861 will be enacted in calendar year 1982 and that the full amounts authorized will be appropriated early in fiscal year 1983.

The estimated authorization for fiscal year 1983 includes the $2.5 million authorized for acquiring and developing the Natchez Trace Trail and another $210,000 for developing the Florida Trail. The Forest Service (FS) anticipates no land acquisition activities for the Florida Trail. Based on information from the National Park Service (NPS), the cost of developing the Potomac Heritage Trail is expected to be insignificant. It is assumed that these funds will be spent over a three-year period, consistent with the pattern of similar programs.

An additional $550,000 is estimated to be necessary for the studies of five of the six trail routes. This estimate assumes that no additional costs will be incurred for the study of the Beale Wagon Road, because the bill directs the FS to complete this study as part of the ongoing planning process. The funds for the studies are expected to be disbursed over a three-year period.

The initial National Trails System plans are expected to cost approximately $90,000 each. The cost of these bi-annual plans are expected to drop to about $30,000 by fiscal year 1987 when the necessary data base would be in place. These expenses are expected to be incurred over two years.

The management plans associated with the new scenic trails are expected to cost $130,000 in fiscal year 1983, with expenses to be incurred over a three-year period.

The remaining provisions in the bill are not expected to add significant costs to the NPS or FS programs. The costs associated with erecting markers and revising documents for the new name assignments of a trail and a forest area are estimated to be negligible. Provisions allowing for trail interpretation sites are not expected to increase costs because both agencies presently are authorized to provide such facilities in the areas through which the trails pass.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 23, 1981, CBO transmitted a cost estimate for H.R. 861 as ordered reported by the House Committee on Interior and Insular Affairs on July 29, 1981. Although the two versions of the bill are similar, the estimated costs of the Senate version are $0.1 million lower, because no special study of the Beale Wagon Road is required.

9. Estimate prepared by: Kathleen M. Gramp.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

## Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 861 as reported. H.R. 861 would amend the National Trails Sys-

tem Act by designating additional scenic and historic trails, and for other purposes.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of H.R. 861.

## Executive Communication

The pertinent legislative reports received from the Departments of Agriculture and the Interior setting forth Executive agency recommendations relating to H.R. 861 is set forth below:

Department of Agriculture,
Office of the Secretary,
*Washington, D.C., September 22, 1982.*

Hon. James A. McClure,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: As requested here is our report on H.R. 861, a bill to amend the National Trails System Act by designating additional National Scenic and Historic Trails, and for other purposes.

The Department of Agriculture recommends enactment of the act if amended to delete section 211.

H.R. 861 would amend the National Trails System Act by designating three scenic trails as components of the National Trails System and by designating six additional trail routes for study. The bill further amends the National Trails System Act by making several amendments designed to improve the effectiveness and efficiency of on-the-ground administration; amends the Land and Water Conservation Fund Act regarding the collection of recreation fees; designates the "Bizz Johnson Trail" in Lassen County, California; and designates a portion of the Nantahala National Forest in North Carolina as the "Roy Taylor Forest."

Recreation trails provide high quality recreation opportunities on public lands. The Forest Service administers over 100,000 miles of recreation trails which include several components of the National Trails System. H.R. 861 would further enhance the Forest Service involvement in the administration and study of existing or potential components of the National Trails System.

The study report for the proposed Florida Trail was completed by the Forest Service and concludes that the trail meets the cirteria for designation as a National Scenic Trail.

One hundred thirty-two miles of this trail have been completed by the Forest Service and are presently in use on the National Forest in Florida. We support designation of the Florida National Scenic Trail and recommend it be administered by the Secretary of Agriculture.

The bill proposes six new trails for study as potential additions to the National Trails System: The Juan Bautista de Anza Trail, Trail of Tears, Illinois Trail, Jedediah Smith Trail, General Crook Trail,

and Beale Wagon Road. The proposed studies of the Juan Bautista de Anza Trail, Jedediah Smith Trail, and Trail of Tears could involve limited amounts of National Forest System lands, but primarily affect lands administered by the Department of the Interior. Studies of these trails and the Illinois Trail, which affect lands administered by USDI, should be completed by the Secretary of the Interior in cooperation with this Department.

The proposed General Crook Trail extends approximately 360 miles from Prescott, Arizona, to Fort Craig, New Mexico. We support its study by the Secretary of Agriculture.

The Beale Wagon Road was commissioned for survey in 1857 and traverses the State of Arizona from Fort Defiance to the Colorado River, a distance of approximately 370 miles. Approximately 20 percent of the proposed trail is within the boundaries of the Kaibab and Coconino National Forests. A study of the Kaibab National Forest portion of the trail has been completed, and we would be willing to complete the study on the remaining portion of the trail on the National Forest System under existing land management planning authorities. The major portion of the trail, approximately 80 percent, is on private land, Indian Reservation, and other public lands. The study responsibility for these portions of the trail should be with the Department of the Interior.

The Forest Service manages a significant portion of the National Trails System. The technical amendments to the National Trails System Act, provided by H.R. 861, would improve the effectiveness and efficiency of our administration. We particularly favor those portions of the bill that would enhance volunteer support and maintenance of the trails.

Section 211 of H.R. 861 amends the Land and Water Conservation Fund Act of 1965 by restricting the charging of entrance and admission fees at National Recreation Areas, and singles out units of the National Wild and Scenic River System and National Trails System as being ineligible for the collection of entrance or admission fees. We do not believe it is appropriate to further restrict the capability to collect recreation user fees. The Forest Service is looking at the recreation fee system and studying an overall approach which may lead to recommended changes in the future. We strongly recommend that section 211 not be included in the legislation.

Title III of the proposed legislation designates the "Bizz Johnson Trail" for recognition of the former Congressman's efforts to protect areas for outdoor recreation. We have no objection to this designation.

Title IV provides for the designation of 39,000 acres of the Nantahala National Forest as the "Roy Taylor Forest" in recognition of the former Congressman's efforts to provide outdoor recreation areas. We have no objection to this designation.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., September 23, 1982.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of the Interior on H.R. 861, an act "To amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes."

We recommend the enactment of H.R. 861, if amended to delete section 211. We also recommend certain other amendments.

As passed by the House of Representatives on May 11, the act designates three new components of the National Trails System and six trails for future study. It also makes several technical and some important substantive amendments to the National Trails System Act. In addition, H.R. 861 prohibits the imposition of entrance fees at certain Federal recreation areas (section 211), designates a public recreation trail on Bureau of Land Management and Forest Service lands in Lassen County, California, as the "Bizz Johnson Trail" (title III), and designates a portion of the Nantahala National Forest in Jackson County, North Carolina, as the "Roy Taylor Forest" (title IV).

We have several comments on the provisions relating to specific trails.

The act designates the Potomac Heritage National Science Trail in accordance with a Department of the Interior report of December 1974. No part of the trail in the State of West Virginia, however, is included in the designation. The trail shall consist only of a corridor within the exterior boundaries of federally administered areas, such as the C and O Canal National Historical Park. No additional acquisition costs are anticipated.

The Natchez Trace National Scenic Trail also would be designated, in accordance with an August 1979 Department of the Interior report. The act specifically limits appropriations for the Natchez Trace Trail to $500,000 for acquisition and $2 million for development.

Both the Potomac Heritage and Natchez Trace were studied as potential national scenic trails. The studies found them to be qualified for inclusion in the system, and we recommended that they be so designated. Since the Potomac Heritage and Natchez Trace Trails will be located almost entirely within the exterior boundaries of existing Federal areas, we do not recommend additional land acquisition for these trails.

The act also designates the Florida National Scenic Trail in accordance with a February 1982 Department of the Interior report and further provides for administration by the Secretary of Agriculture. We defer to that agency as to whether the Florida Trail should be designated at this time.

H.R. 861 also designates six trails for study. We would have no objection to these studies if it is clear that they would not be undertaken until funds were appropriated specifically for that purpose. Sec-

tion 5(d) of the National Trails System Act requires that such studies be completed and submitted to the Congress within three fiscal years of their designation for study. In order to meet that deadline, we recommend language indicating that the 3-year period begins with the appropriation of the necessary funds. In this connection, we estimate the cost of each study to be approximately $150,000. With respect to the proposed General Crook Trail in Arizona, the study would be carried out by the Departemnt of Agriculture because most of the trail route is on or near lands administered by that Department.

With regard to the Beale Wagon Road, we defer to the Department of Agriculture for a position on that section of the trail that is on National Forest System lands. However, we do not recommend that a study be done for those portions of the Beale Wagon Road outside of National Forest boundaries. The original historic road in these segments has largely been obliterated by modern highways and other improvements. Such historic remnants as may be found along the route could be interpreted by markers placed along the highway by the State of Arizona.

As H.R. 861 was reported from the House Committee on Interior and Insular Affairs, it included a very desirable amendment to the study provisions of section 5(b) of the National Trails System Act. It established a process for shortcutting long and expensive trail studies when it is determined during a study that trail development is not feasible and there is no significant need for the trail. By an appropriate report to the House and Senate Committees, the study can be terminated unless either committee disapproves within 30 days. This provision was deleted on the House floor in order to avoid concern over its legislative veto provisions. We believe the idea is sound—that there should be a process for shortcutting studies where a preliminary review of the route indicates clearly that trail development is not feasible. We recommend that your Committee adopt such an amendment, but without the legislative veto provisions. It should be sufficient to permit the Secretary to make a determination of infeasibility and notify the committees, following which he may terminate the study. Each Committee, through the exercise of its oversight responsibilities, could inquire into the basis of the Secretary's determination.

H.R. 861 also makes other generic amendments to the National Trails System Act. To the extent they are definitional and clarifying, such as defining the term "extended trail" in section 3 of the act and new definitions in a new section 12, we have no objection to these amendments. Others, however, are substantive, and we feel strongly that some should and some should not be enacted.

With the help of your Committee, we have been working to apply a land protection policy to areas funded by the Land and Water Conservation Fund. The thrust of this new policy, which we published in May 1982 following the invaluable workshops last year which your Committee hosted, is the use whereever appropriate of alternatives to fee purchase of land. To implement this policy, some new tools are needed. H.R. 861 contains several provisions that would give the National Park Service and the Forest Service some new tools to apply land protection to units of the National Trails System. We support these provisions wholeheartedly.

At this year's workshop, we released reports of certain case studies we had done. These case studies indicated how alternative to fee simple acquisition could accomplish an appropriate level of protection and at the same time reduce Federal costs. One such study treated the Appalachian National Scenic Trail, one of the first components designated by Congress as part of the National Trails System. H.R. 861 provides the tools that our case study indicated would be desirable for application to the Appalachian Trail:

1. Disposal of remnant lands. H.R. 861 authorizes the acquisition of remnants of whole parcels, with the owner's consent, and the sale of the unneeded remnant. Under existing law, the proceeds of such sale would go into the Land and Water Conservation Fund. Under H.R. 861, however, the proceeds shall be credited to the appropriation bearing the cost of land acquisition for the particular trail. Thus, these funds become immediately available, without further appropriation, for continued acquisition of needed trail rights-of-way.

2. Tax status of donated interests. H.R. 861 states that for Federal tax purposes, donation of less-than-fee interests for trail purposes will satisfy the requirement for conservation purposes. This language will clarify the status of donations of easements within as well as near the trail corridor, thus encouraging cost-effective land protection.

We strongly support these provisions. In addition, we strongly support the provisions in H.R. 861 which encourage the use of the Volunteers in the Parks and Volunteers in the National Forest programs for trail maintenance, and authorize assistance to volunteers with tools and limited financial assistance. Volunteer work is highly cost effective and should be encouraged.

We do note, however, that the Bureau of Land Management (BLM) manages a significant portion of the National Trails System but its authority to accept volunteer services for public lands activities under the Federal Land Policy and Management Act of 1976 has been overlooked in H.R. 861. We recommend that the National Trails System Act be amended to take into account BLM's role in managing those portions of the National Trails System which are on public land.

Although BLM has the authority to accept volunteer services for public lands activities, that authority has some limitations that do not apply to other agencies and that hamper BLM's volunteer program. We recommend that new section 11 of the act be amended by adding a new subsection that would grant authorities for the BLM volunteer program that are comparable to those previously granted for the National Park Service and the U.S. Forest Service. The proposed amendment would be applicable to all BLM-managed public lands, not just those lands on which trails are located. It would enable the BLM to provide to volunteers, either directly or by reimbursement, certain incidentals such as meals, and transportation to and from work sites. It would also protect volunteers from liability and costs incurred from injuries occurring on the job. Proposed language for such an amendment has been provided to the Congress and is reflected in S. 2753.

We also support the authority in H.R. 861 to transfer, by agreement, management responsibility for particular trail segments between agencies, such as the National Park Service and the Forest

Service. In addition, we have no objection to the provision in the act authorizing the Secretary of Agriculture to designate National Recreation Trails, provided that such atuhority is interpreted to apply to trails on Forest Service lands or on private lands within National Forests with the consent of the owner. We expect to maintain the close coordination that we now enjoy with Agriculture to assure that standards for such designations are basically the same.

H.R. 861 would add a new subsection to section 8 of the National Trails System Act directing the Secretary of Transportation, the Chairman of the Interstate Commerce Commission, and this Department to encourage State and local agencies and private interests to establish appropriate trails. It further encourages the interim use of railbeds by providing that such use, if consistent with the National Trails System Act, will not be treated as abandonment of a railbed. While we strongly support the objectives of this provision, we defer to the views of the other agencies involved as to its enactment.

We do not recommend the provision in H.R. 861 to require the submission of a National Trails System Plan every 2 years to the Congress. We believe the present system, whereby certain trails are designated for study, is far preferable because limited staff and funds can be concentrated on those specific trails singled out by Congress. A nationwide plan every 2 years would, of necessity, be very general. We have no estimate of the cost of this provision.

Section 211 would amend the Land and Water Conservation Fund Act of 1965 to prohibit entrance fees at National Recreation Areas, components of the Wild and Scenic Rivers and National Trails systems, or at any unit of the National Park System where the cost of collection exceeds receipts collected in 1979. We strongly recommend that this section be deleted. Although no entrance fees are now charged at any of the areas that would be affected, the Secretary should have the flexibility to establish such a fee where appropriate to assure that people who benefit from a service pay a greater share of the cost.

We have no objection to titles III and IV of the act, designating the "Bizz Johnson Trail" and the "Roy Taylor Forest".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ROBERT F. BURFORD
(For Assistant Secretary
Garry E. Carruthers).

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, H.R. 861, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

# NATIONAL TRAILS SYSTEM ACT (82 Stat. 919; as amended 16 U.S.C. 1241, *et seq.*)

## STATEMENT OF POLICY

SEC. 2 (a) In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established (i) primarily, near the urban areas of the Nation, and (ii) secondarily, within scenic areas and along historic travel routes of the Nation which are often more remotely located.

(b) [the purpose] *The purpose* of this Act is to provide the means for attaining these objectives by instituting a national system of recreation, scenic and historic trails, by designating the Appalachian Trail and the Pacific Crest Trail as the initial components of that system, and by prescribing the methods by which, and standards according to which, additional components may be added to the system.

*(c) The Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, maintenance, and management, where appropriate, of trails.*

## NATIONAL TRAILS SYSTEM

SEC. 3. *(a)* The national system of trails shall be [composed or—] *composed of the following:*

[(a)] *(1)* National recreation trails, established as provided in section 4 of this Act, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas.

[(b)] *(2)* National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. *National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.*

[(c)] *(3)* National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historic significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those se-

lected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this [Act, are established as initial] *Act are included as* Federal protection components of a national historic trail. The appropriate Secretary may [subsequently] certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

[(d)] (4) Connecting or side trails, established as provided in section 6 of this Act, which will provide additional points of public access to national recreation, national scenic or national historic trails or which will provide connections between such trails.

The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropirate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.

*(b) For purposes of this section, the term "extended trails" means trails or trail segments which total at least one hundred miles in length, except that historic trails of less than one hundred miles may be designated as extended trails. While it is desirable that extended trails be continuous, studies of such trails may conclude that it is feasible to propose one or more trail segments which, in the aggregate, constitute at least one hundred miles in length.*

*(c) On October 1, 1982, and at the beginning of each odd numbered fiscal year thereafter, the Secretary of the Interior shall submit to the Speaker of the United States House of Representatives and to the President of the United States Senate, an initial and revised (respectively) National Trails System plan. Such comprehensive plan shall indicate the scope and extent of a completed nationwide system of trails, to include (1) desirable nationally significant scenic and historic components which are considered necessary to complete a comprehensive national system, and (2) other trails which would balance out a complete and comprehensive nationwide system of trails. Such plan, and the periodic revisions thereto, shall be prepared in full consultation with the Secretary of Agriculture, the Governors of the various States, and the trails community.*

NATIONAL RECREATION TRAILS

SEC. 4. (a) The Secretary of the Interior, or the Secretary of Agriculture where lands administered by him are involved, may establish and designate national recreation trails, with the consent of the Federal agency, State, or political subdivision having jurisdiction over the lands involved, upon finding that—

(i) such trails are reasonably accessible to urban areas, and, or

(ii) such trails meet the criteria established in this Act and such supplementary criteria as he may prescribe.

**(b) As provided in this section, trails within park, forest, and other recreation areas administered by the Secretary of the Interior or the**

Secretary of Agriculture or in other federally administered areas may be established and designated as "National Recreation Trails" by the appropriate Secretary and, when no Federal land acquisition is involved—

(i) trails in or reasonably accessible to urban areas may be designated as "National Recreation Trails" by the [Secretary of the Interior] *appropriate Secretary* with the consent of the States, their political subdivisions, or other appropriate administering [agencies, and] *agencies;*

(ii) trials within park, forest, and other recreation areas owned or administered by States may be designated as "National Recreation Trails" by the [Secretary of the Interior] *appropriate Secretary* with the consent of the State[.]*; and*

*(iii) trails on privately owned lands may be designated "National Recreation Trails" by the appropriate Secretary with the written consent of the owner of the property involved.*

NATIONAL SCENIC AND NATIONAL HISTORICAL TRAILS

SEC. 5. (a) National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

(1) * * *

* * * * * * *

*(11) The Potomac Heritage National Scenic Trail, a corridor of approximately seven hundred and four miles following the route as generally depicted on the map identified as "National Trails System, Proposed Potomac Heritage Trail" in "The Potomac Heritage Trail," a report prepared by the Department of the Interior and dated December 1974, except that no designation of the trail shall be made in the State of West Virginia. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall initially consist of only those segments of the corridor located within the exterior boundaries of federally administered areas. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Potomac Heritage Trail. The Secretary of the Interior may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of the Interior.*

*(12) The Natchez Trace National Scenic Trail, a trail system of approximately six hundred and ninety-four miles extending from Nashville, Tennessee, to Natchez, Mississippi, as depicted on the map entitled "Concept Plan, Natchez Trace Trails Study" in "The Natchez Trace," a report prepared by the Department of the Interior and dated August 1979. The map shall be on file and available for public inspection in the office of the Director of the*

*National Park Service, Department of the Interior, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.*

*(13) The Florida National Scenic Trail, a route of approximately thirteen hundred miles extending through the State of Florida as generally depicted in "The Florida Trail," a national scenic trail study draft reported prepared by the Department of the Interior and dated February 1980. The report shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Florida Trail except with the consent of owner thereof. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of Agriculture.*

(b) The Secretary of the Interior, through the agency most likely to administer such trail, and the Secretary of Agriculture where lands administered by him are involved, shall make such additional studies as are herein or may hereafter be authorized by the Congress for the purpose of determining the feasibility and desirability of designating other trails as national scenic or national historic trails. Such studies shall be made in consulation with the heads of other Federal agencies administering lands through which such additional proposed trails would pass and in cooperation with interested interstate, State, and local governmental agencies, public and private organizations, and landowners and land users concerned. *The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and whether the development of a trail would be financially feasible.* The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:

(1) the proposed route of such trail (including maps and illustrations);

(2) the areas adjacent to such trails, to be utilized for scenic, historic, natural, cultural, or developmental, purposes;

(3) the characteristics which, in the judgment of the appropriate Secretary, make the proposed trail worthy of designation as a national scenic or national historic trail; and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (40 Stat. 666; *16* U.S.C. 461);

(4) the current status of land ownership and current and potential use along the designated route;

(5) the estimated cost of acquisition of lands or interest in lands, if any;

(6) the plans for developing and maintaining the trail and the cost thereof;

(7) the proposed Federal administering agency (which, in the case of a national scenic trail wholly or substantially within a national forest, shall be the Department of Agriculture);

(8) the extent to which a State or its political subdivisions and public and private organizations might reasonably be expected to participate in acquiring the necessary lands and in the administration thereof;

(9) the relative uses of the lands involved, including, the number of anticipated visitor-days for the entire length of, as well as for segments of, such trail; the number of months which such trail, or segments thereof, will be open for recreation purposes; the economic and social benefits which might accrue from alternate land uses; and the estimated man-years of civilian employment and expenditures expected for the purposes of maintenance, supervision, and regulation of such trail;

(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variations offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, *exploration*, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is gen-

erally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.

(c) The following routes shall be studied in accordance with the objectives outlined in subsection (b) of this section:

(1) * * *

* * * * * * *

(9) Santa Fe Trail, from Independence, Missouri, approximately eight hundred miles to [Sante Fe] *Santa Fe*, New Mexico.

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*(24) Juan Bautista de Anza Trail, following the overland route taken by Juan Bautista de Anza in connection with his travels from the United Mexican States to San Francisco, California.*

*(25) Trail of Tears, including the associated forts and specifically, Fort Mitchell, Alabama, and historic properties, extending from the vicinity of Murphy, North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, and Arkansas, to the vicinity of Tahlequah, Oklahoma.*

*(26) Illinois Trail, extending from the Lewis and Clark Trail at Wood River, Illinois, to the Chicago Portage National Historic Site, generally following the Illinois River and the Illinois and Michigan Canal.*

*(27) Jedediah Smith Trail, to include the routes of the explorations led by Jedediah Smith—*

*(A) during the period 1826–1827, extending from the Idaho-Wyoming border, through the Great Salt Lake, Sevier, Virgin, and Colorado River Valleys, and the Mojave Desert, to the San Gabriel Mission, California; thence through the Tehachapi Mountains, San Joaquin and Stanislaus River Valleys, Ebbetts Pass, Walker River Valley, Bald Mount, Mount Grafton, and Great Salt Lake to Bear Lake, Utah; and*

*(B) during 1828, extending from the Sacramento and Trinity River valleys along the Pacific coastline, through the Smith and Willamette River Valleys to the Fort Vancouver National Historic Site, Washington, on the Columbia River.*

*(28) General Crook Trail, extending from Prescott, Arizona, across the Mogollon Rim to Fort Apache.*

*(29) Beale Wagon Road, within the Kaibab and Coconino National Forests in Arizona: Provided, such study may be prepared in conjunction with ongoing planning processes for these National Forests to be completed before 1990.*

(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the system, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. *If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate*

*committees of the Congress*. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

[(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;]

*(1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;*

[(ii)] *(2)* a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

[(iii)] *(3)* one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

[(iv)] *(4)* the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

* * * * * * *

(f) Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for natural scenic or [national recreational] *national historic* trails an identified carrying capacity of the trail and a plan for its implementation; [and]

(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act[.];

*(3) a protection plan for any high potential historic sites or high potential route segments; and*

*(4) general and site-specific development plans, including anticipated costs.*

CONNECTING AND SIDE TRAILS

SEC. 6. Connecting or side trails within park, forest, and other recreation areas administered by the Secretary of the Interior or Secretary of Agriculture may be established, designated, and marked *by the appropriate Secretary* as components of a national recreation, national scenic or national historic trail. When no Federal land acquisition is involved, connecting or side trails may be located across lands administered by interstate, State, or local governmental agencies with their consent[: *Provided*, That such trails provide additional points of public access to national recreation, national scenic, or national historic trails.], *or, where the appropriate Secretary deems necessary or desirable, on privately owned lands with the consent of the landowner. Applications for approval and designation of connecting and side trails on non-Federal lands shall be submitted to the appropriate Secretary.*

ADMINISTRATION AND DEVELOPMENT

*SEC. 7. (a)(1)(A) The Secretary charged with the overall administration of a trail pursuant to section 5(a) shall, in administering and managing the trail, consult with the heads of all other affected State and Federal agencies. Nothing contained in this Act shall be deemed to transfer among Federal agencies any management responsibilities established under any other law for federally administered lands which are components of the National Trails System. Any transfer of management responsibilities may be carried out between the Secretary of the Interior and the Secretary of Agriculture only as provided under subparagraph (B).*

*(B) The Secretary charged with the overall administration of any trail pursuant to section 5(a) may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this Act. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement, except to such extent as the agreement may otherwise expressly provide.*

[SEC. 7. (a)] *(2)* Pursuant to section 5(a), the appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice [thereof] *of the availability of appropriate maps or descriptions* in the Federal Register[, together with appropriate maps and descriptions]; *Provided*, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation.

Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The location and width of such rights-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting rights-of-way for trail purposes, the Secretary shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned.

(b) After publication of notice *of the availability of appropriate maps or descriptions* in the Federal Register, [together with appropriate maps and descriptions,] the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) Such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: *Provided*, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.

(c) National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicables, efforts be made to avoid activities incompatible with the purposes for which such trials were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this Act shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights: *Provided further*, That private lands included in the national recreation, national scenic, or national historic trails by cooperative agreement of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent lands from time to time in accordance with regulations to be established by the appropriate Secretary. Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route. Other uses

along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time if designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail. The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, natural scenic, and national historic trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriated points along the trials and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established. *The appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and t he State agency.*

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(e) Where the lands included in a national scenic or national historic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic or national historic trail: *Provided*, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interests therein after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of [subsection (g)] *subsection (f)* of this section [.] *: Provided further, That the appropirate Secretary may acquire lands or interests therein from local governments or governmental corporations with the consent of such entities.* The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired: *Provided*, That if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner, or his heirs or assigns,

shall be offered, by notice given at the former owner's last known address, the right of first refusal at the fair market price.

(f)(*1*) The Secretary of the Interior, in the exercise of his exchange authority, may accept title to any non-Federal property within the right-of-way and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which is located in the State wherein such property is located and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. The Secretary of Agriculture, in the exercise of his exchange authority, may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(*2*) *In acquiring lands or interests therein for a National Scenic or Historic Trail, the appropriate Secretary may, with consent of a landowner, acquire whole tracts notwithstanding that parts of such tracts may lie outside the area of trail acquisition. In furtherance of the purposes of this act, lands so acquired outside the area of trail acquisition may be exchanged for any non-Federal lands or interests therein within the trail right-of-way, or disposed of in accordance with such procedures or regulations as the appropriate Secretary shall prescribe, including: (i) provisions for conveyance of such acquired lands or interests therein at not less than fair market value to the highest bidder, and (ii) provisions for allowing the last owners of record a right to purchase said acquired lands or interests therein upon payment or agreement to pay an amount equal to the highest bid price. For lands designated for exchange or disposal, the appropriate Secretary may convey these lands with any reservations or covenants deemed desirable to further the purposes of this act. The proceeds from any disposal shall be credited to the appropriation bearing the costs of land acquisition for the affected trail.*

(g) The appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to provide passage across such lands: *Provided*, That condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of one hundred and twenty-five acres per mile. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to appropriations from other sources, be available to Federal departments for the acquisition of lands or interests in lands for the purposes of this Act. For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites. **[No]** *Except for designated protected components of the trail, no* land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions **of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f) unless such land or site is deemed to be of historical signifi-**

cance under appropriate historical site criteria such as those for the National Register of Historic Places.

(h)(*1*) The Secretary charged with the administration of a national recreation, national scenic, or national historic trail shall provide for the development and maintenance of such trails within federally administered areas and shall cooperate with and encourage the States to operate, develop, and maintain portions of such trails which are located outside the boundaries of federally administered areas. When deemed to be in the public interest, such Secretary may enter written cooperative agreements with the States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of [a national scenic or national historic trail] *such a trail* either within or outside a federally administered area. *Such agreements may include provisions for limited financial assistance to encourage participation in the acquisition, protection, operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 and the Volunteers in the Forests Act of 1972) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. The appropriate Secretary shall also initiate consultations with affected States and their political subdivisions to encourage—*

*(A) the development and implementation by such entities of appropriate measures to protect private landowners from trespass resulting from trail use and from unreasonable personal liability and property damage caused by trail use, and*

*(B) the development and implementation by such entities of provisions for land practices compatible with the purposes of this Act,*

*for property within or adjacent to trail rights-of-way. After consulting with States and their political subdivisions under the preceding sentence, the Secretary may provide assistance to such entities under appropriate cooperative agreements in the manner provided by this subsection.*

[Whenever the] (*2*) *Whenever the* Secretary of the Interior makes any conveyance of land under any of the public land laws, he may reserve a right-of-way for trails to the extent he deems necessary to carry out the purposes of this Act.

(i) The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment. *The Secretary responsible for the*

*administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forest system, as the case may be, in carrying out his administrative responsibilities for such component.*

*(j) Potential trail uses allowed on designated components of the national trails system may include, but are not limited to, the following: bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, and surface water and underwater activities. Vehicles which may be permitted on certain trails may include, but need not be limited to, motorcycles, bicycles, four-wheel drive or all-terrain off-road vehicles. In addition, trail access for handicapped individuals may be provided. The provisions of this subsection shall not supercede any other provisions of this Act or other Federal laws, or any State or local laws.*

*(k) For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organiaztions consistent with section 170(h)(3) of the Internal Revenue Code of 1954, including, but not limited to, right-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96–541.*

STATE AND METROPOLITAN AREA TRAILS

SEC. 8. (a) * * *

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*(d) The Secretary of Transportation, the Chairman of the Interstate Commerce Commission, and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory, Reform Act of 1976, shall encourage State and local agencies and private interests to establish appropriate trails using the provisions of such programs. Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, in the case of interim use of any established railroad rights-of-way pursuant to donation, transfer, lease, sale, or otherwise in a manner consistent with the National Trails System Act, if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such*

*transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the Commission shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this Act, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use.*

[d] (*e*) Such trails may be designated and suitably marked as parts of the nationwide system of trails by the States, their political subdivisions, or other appropriate administering agencies with the approval of the Secretary of the Interior.

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AUTHORIZATION OF APPROPRIATIONS

SEC. 10. (*a*) (*1*) There are hereby authorized to be appropriated for the acquisition of lands or interests in lands not more than $5,000,000 for the Appalachian National Scenic Trail and not more than $500,000 for the Pacific Crest National Scenic Trail. From the appropriations authorized for fiscal year 1979 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended, not more than the following amounts may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this Act:

[(a) The] *for the* Appalachian National Scenic Trail, not to exceed $30,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in subsequent fiscal years.

[It is the express intent] (*2*) *It is the express intent* of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the *Appalachian* Trail within three complete fiscal years following the date of enactment of this sentence. Until the entire acquisition program is completed, he shall transmit in writing at the close of each fiscal year the following information to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives;

(A) the amount of land acquired during the fiscal year and the amount expended therefor;

(B) the estimated amount of land remaining to be acquired; and

(C) the amount of land planned for acquisition in the ensuing fiscal year and the estimated cost thereof.

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(c) (*1*) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a) (3), (4), (5), (6), (7), (8), (9) and (10): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1978: *And provided further*, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended by Federal agencies for the acquisition of lands or interests in lands outside the exterior boundaries of existing Federal areas for the Continental Divide National

Scenic Trail, the North Country National Scenic Trail, The Ice Age National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail, *except that funds may be expended for the acquisition of lands or interests therein for the purpose of providing for one trail interpretation site, as described in section 7(c), along with such trail in each State crossed by the trail.*

*(2) There is hereby authorized to be appropriated for fiscal year 1983 and subsequent fiscal years such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs (9) through (13) of section 5(a) of this Act. Not more than $500,000 may be appropriated for the purposes of acquisition of land and interests therein for the trail designated by section 5(a) (12) of this Act, and not more than $2,000,000 may be appropriated for the purposes of the development of such trail. The administrating agency for the trail shall encourage volunteer trail groups to participate in the development of the trail.*

*VOLUNTEER TRAILS ASSISTANCE*

*SEC. 11. (a) (1) In addition to the cooperative agreement and other authorities contained in this Act, the Secretary of the Interior, the Secretary of Agriculture, and the head of any Federal agency administering Federal lands, are authorized to encourage volunteers and volunteer organizations to plan, develop, maintain, and manage, where appropriate, trails througout the Nation.*

*(2) Wherever appropriate in furtherance of the purposes of this Act, the Secretaries are authorized and encouraged to utilize the Volunteers in the Parks Act of 1969, the Volunteers in the Forests Act of 1972, and section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of Statewide Comprehensive Outdoor Recreation Plans).*

*(b) Each Secretary or the head of any Federal land managing agency, may assist volunteers and volunteer organizations in planning, developing, maintaining, and managing trails. Volunteer work may include, but need not be limited to—*

*(1) planning, developing, maintaining, or managing (A) trails which are components of the national trails system, or (B) trails which, if so developed and maintained, could qualify for designation as components of the national trails system; or*

*(2) operating programs to organize and supervise volunteer trail building efforts with respect to the trails referred to in paragraph (1), conducting trail-related research projects, or providing education and training to volunteers on methods of trails planning, construction, and maintenance.*

*(c) The appropriate Secretary or the head of any Federal land managing agency may utilize and make available Federal facilities, equipment, tools, and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal land managing agency deems necessary or desirable.*

*DEFINITIONS*

*SEC. 12. As used in this Act:*

*(1) The term "high potential historic sites" means those historic sites related to the route, or sites in close proximity thereto, which provide opportunity to interpret the historic significance of the trail during the period of its major use. Criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion.*

*(2) The term "high potential route segments" means those segments of a trail which would afford high quality recreation experience in a portion of the route having greater than average scenic values or affording an opportunity to vicariously share the experience of the original users of a historic route.*

*(3) The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.*

*(4) The term "without expense to the United States" means that no funds may be expended by Federal agencies for the development of trail related facilities or for the acquisition of lands or interests in lands outside the exterior boundaries of Federal areas. For the purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Fund Act of 1965 or any other provision of law shall not be treated as an expense to the United States.*

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